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Crime Commission

Insp. 24/4/62

pp 3116 - 3322

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

TRANSCRIPT OF ARGUMENT ON APPEAL

Date

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TUESDAY,
APRIL 24, 1962.

--- On opening at 10:37 a.m.

MR. WILSON: Now, I - Mr. Commissioner, I am going to call two witnesses, in view of the evidence given on Thursday, merely to, in a general way, deal with certain evidence that was given that refers to them, on the basis that they will be recalled at a later date, and be available for cross-examination by my friends. I will call first Mr. Eric Silk.

MR. ERIC SILK, recalled:

EXAMINED BY MR. WILSON:

THE WITNESS: I am sworn.

MR. WILSON: In the summer of 1958, did you have a telephone call, or other communication, from anyone in regard to the RAmsey Club at Niagara Falls, Ontario.

A. Mr. Wilson, I think I will have to answer that in my own way, since you relate it to a date. You will recall, sir, that about the beginning of March I think you telephoned to suggest to me that I - it might be necessary to call me as a witness because of a call that I was said to have received from the May or of

Niagara Falls. I don't know what date, but I recall the incident, and I recall three matters which I related to you at that time. I think one was that I had received a call allegedly from the Mayor of Niagara Falls. The second was that I had done something about it; and the third was that when I was called some time later and asked if I had received such a call I said that I had, and when I was told that it was not from the Mayor of Niagara Falls and expressed concern, I was then assured that there was nothing to concern myself about, that there had been other calls of the same sort. Now, may I - may I say this, sir, that I commented to you that had such a call occurred it probably came in the summer, because it would seem to me likely that Mr. Common was away, and probably Mr. Bowman, otherwise the call would not have reached me, and apparently it was in the summer, the year I cannot fix, apart from subsequent events. Now I would like to say this, that I do not know Sergeant Shrubb, or Chief Shrubb. So far as I can recall, I never heard his name until these proceedings before you commenced, Mr. Commissioner. Sergeant Anderson I had. I knew that Sergeant Anderson was the head of the Anti-gambling Squad, although so far as I know I had never seen him until I saw him in the witness box here. I make a practice of dictating a memorandum for the file quite

Frequently in connection with matters that I may think may have some potential future importance, and following your advice to me, and I think that is perhaps why you called me, I have had our letter books and our files and our opinion books checked, and I did not make a record of the call at all, and I am not surprised, because I did not regard it as important at the time. Now, then, to be specific, I recall that the person who telephoned me introduced himself as the Mayor of Niagara Falls, very probably gave me his surname, but if he did I don't recall what it is. I understand now it is Mr. Hawkins, subsequently a Mr. Hawkins, and the approach was, ' Do you know anything about the gambling situation in Niagara Falls.' and I assured him that I did not, and then he went on to tell me that the situation was bad from a policing point of view, and suggested that something should be done about the policing, and I inquired what police force was responsible, and he told me the Ontario Provincial Police. Well, then, I recall that I took some action as a result, and I thought it likely that I had telephoned the Commissioner, but when I read Exhibit 120, which suggests that I told the caller, the supposed Mayor, that he should call Assistant Commissioner Franks, I think that is what I did, sir; and then the next action was when I received a telephone call from someone who

according to my recollection identified himself with the criminal side of the Provincial Police Force. I don't think it was Franks, but somehow I - I think he identified himself with Franks, and asked me if I had received a call from someone purporting to be the Mayor of Niagara Falls, which I assured him that I had, and I stress that because it is at odds with what appears in the report, Exhibit 120. I would put it this way: whoever called me, whether it was Shrubb or some other person, I stated that I had received such a call, and never have I denied receiving such a call, either by telephone or in direct conversation, or otherwise. Now, the statement that I denied receiving such a call is a mis-statement, sir.

Q. Well, sir, I have Exhibit 120, and this has been read right into the record.

THE COMMISSIONER: Let me see Exhibit 120.

THE WITNESS: It is the middle of the second last paragraph, sir.

MR. WILSON: On page three, is it not, the third paragraph.

A. Page three.

Q. Yes.

A. It reads:

"I placed a call to Mr. Silk and he advised me he had received no call concerning the matter."

I made no such statement to anyone.

Q. Well, then, if you will just read on through that same paragraph?

A. Yes. I want to do that, sir. It reads:

"He, in turn, spoke with the Honourable, the Attorney-General and the Deputy Attorney-General and they stated they were aware of the friction between the operators of the Bertie Township club and the Ramsey Club but that they had received no complaint from the Mayor of Niagara Falls."

Now, I do not recall making any such statement, and so far as I am able to recall I never heard of the Ramsey Club or the Bertie Club until these proceeding commenced, or until that was mentioned by Mr. Wintermeyer in his speech in the House, and I, since -- since this evidence came out on Thursday, I have made inquiries through Mr. Common as to whether there was any reason why I should have that knowledge at that time, if it had been in the press, if it had been current in the office, and he assured me that there was not. Incidentally, I also talked with the Attorney-General, and the Deputy, and with the Director of Public Prosecutions, as to whether I ever reported these calls -- this call from the -- supposed call from the Mayor of Niagara Falls, which turned out not to be so, and they say they cannot recall me ever having reported it,

A/2/S

and I am not surprised, since it was in the summertime, and we were back and forth on holidays and such, and didn't see as much of one another as normal.

I think that is all I have to contribute, sir.

Q. Did you ever hear anything further from Inspector Franks, or anyone else in the C.I.B., after the call that you have spoken about where you were asked whether you had received a call from someone who had named themself as the Mayor of Niagara Falls?

A. No, I don't recall having any further conversation or inquiry about the incident atall until you telephoned me, Mr. Wilson.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Any questions?

MR. MacKINNON: No.

MR. BREWIN: Well, just a minute, sir, I would like to question you, sir.

EXAMINED BY MR. BREWIN:

Q. Mr. Silk, I want to get it clear. You did have a conversation with someone who claimed to be Mayor of Niagara Falls?

A. Yes, sir.

Q. And you made no record of it at all?

A. That is right, sir.

Q. And you are rather vague about

what you did. You may have done, as this report suggests, recommended that they get in touch with Commissioner Franks.

A. I think that is what I did, sir.

Q. And that you had a conversation with someone who may have been Corporal Shrubb, as he then was, or may have been Inspector Franks, someone connected with the criminal investigation end of the police.

A. That is right.

Q. Yes.

A. Except that I don't think it was Franks. I -- I think it was somebody who identified himself as with Franks' side of the force.

Q. Well, if Corporal Shrubb, or Acting Constable -- Chief Shrubb, as he now is, says that he spoke to you, it is probably that he did?

A. Yes, it is, sir, but the report as to my reply to the question is definitely not accurate.

Q. Yes. Well, so; I gather although you are a little vague, you made no record at the time.

A. No, I made no record.

Q. No, and --

A. Or if I did, I haven't been able to turn it up, Mr. Erewin.

Q. Yes. And whether you in fact spoke

what you did." You may have done, or there may not
[illegible] recommended that they get in touch
with Commissioner [illegible].

A. I think that is what I did, sir.

Q. Does that not [illegible]

with common sense may have been [illegible]
as he then was, or may have been [illegible]
[illegible], however [illegible] the [illegible]
investigation and of the position.

A. That is right.

Q. Yes.

A. [illegible] that I was [illegible]
[illegible]. I -- I think it was morally the
[illegible] himself to warn myself also of the
[illegible].

Q. Well, if [illegible] Chief Clerk, as
Acting Commander -- Chief Clerk, on [illegible]
ought that he spoke to you, it is [illegible]
he [illegible]

A. Yes, it is, but the report
on to me [illegible] to the question in particular was
[illegible].

Q. Yes. Well, and I mention [illegible]
you was a [illegible] matter, you made no record of
the [illegible].

A. No, I made no record.

Q. No, and --

A. Or if I did, I haven't been able
to [illegible] it so, Sir, [illegible].

Q. Yes. And therefore you is [illegible]

to the Attorney General, Deputy Attorney General at that time about it again you are not sure about that?

A. That is right.

Q. Yes, and I see one thing that you are fairly clear about is that you did not say that you had received no call concerning that matter, because in fact you did receive a call, and you would have reported that.

A. Yes. I couldn't be more clear on that.

Q. Yes. That is the one point you are clear about?

A. Yes, sir.

MR. BREWIN: Thank you.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: That is all, thank you.

--- The Witness withdrew.

MR. WILSON: I will call Chief Constable Pay of Niagara Falls.

CHIEF CONSTABLE CECIL ROSS PAY, sworn:

EXAMINED BY MR. WILSON:

THE WITNESS: My lord, could I refer to my notes?

THE COMMISSIONER: Oh, yes, yes.

A. I have been described --

THE COMMISSIONER: No, no. Wait a moment.

MR. WILSON: Just a minute.

THE COMMISSIONER: Mr. Wilson will direct to you some questions.

MR. WILSON: You are Chief Constable of Niagara Falls, Ontario?

A. Yes, sir.

Q. How long have you held that position?

A. Since 1949.

Q. And I take it you are aware from the press reports of certain statements given in evidence by W. J. Shrubb and attributed to Vincent Feeley?

A. Yes. Yes, sir.

Q. Now, do you know Vincent Feeley?

A. No, I do not.

Q. Do you know Joseph McDermott?

A. No, I don't.

Q. Do you know W. J. Shrubb?

A. I do.

Q. Yes. Just so that we will have the statements, were you aware in 1958 of an alleged gambling operation being carried on by the Ramsey Club?

A. Yes, I was.

Q. Yes, and we are -- we are now speaking of the Ramsey Club at what address?

A. 1693 Victoria Avenue.

Q. Now, what was your knowledge of

that operation?

A. That club started the first week in June.

THE COMMISSIONER: Just a moment. At what address on Victoria were you aware of it?

A. 1693.

MR. WILSON: Now, what action had your Force taken in respect to that particular club?

A. I would like to explain -- the first week of June, 1958, the Ramsey Club at 1693 Victoria Avenue opened, and our Department, with the very fine co-operation from the Ontario Provincial Police Anti-gambling Squad --

THE COMMISSIONER: What are you reading from?

A. I was referring to my notes.

THE COMMISSIONER: Well, what notes? What notes?

A. So I could have the date, and so on.

THE COMMISSIONER: Well, you now show me a piece of paper on which you have written down the number of raids, then certain dates, and so forth.

A. Yes, my lord.

THE COMMISSIONER: And what did you take that from?

A. From our records.

THE COMMISSIONER: From your records?

A. Yes, sir.

THE COMMISSIONER: And this was just made to enable you to -- to

A. - to --

THE COMMISSIONER: - give us the dates without bringing all your records over here, is that it?

A. Yes. Yes, my lord.

THE COMMISSIONER: Alright. June, 1958, the first week,it opened up.

A. And was closed the middle of August, 1958. There were 15 raids.

THE COMMISSIONER: Just a minute. Now, don't go too quickly.

MR. WILSON: There were 15 raids from the time it opened until the time it was closed as a result of the raid on August 18th, 1958?

A. Yes, sir.

Q. By your Force?

A. By our Force, and the Ontario -- the fine co-operation with -- the last raid was with the Ontario Provincial Police Anti-gambling Squad.

Q. Yes.

A. Headed by Sergeant John Anderson.

Q. I take it some of these 15 were joint operations?

A. Some were, yes.

Q. Yes.

A. We received very fine co-operation from the Provincial Police.

Q. Now, have you ever tipped off the operators of that particular gambling establishment, or any other gambling establishment in Niagara Falls of any impending raid by your Force?

A. No, I haven't.

Q. Or have you any knowledge of any such tipoffs having been given since you have become the Chief of Police of Niagara Falls?

A. No, sir.

Q. Now, there is a statement in evidence here, it forms a part of a recording of a telephone conversation between W. J. Shrubb and Vincent Feeley. It is at page 3059 of the evidence, where Feeley is said to have made this statement:

"FEELEY: Christ, if you are ever going "to do anything down here don't tell Cee. "Pay. The guy is a horse bettor and a "horse gambler all his life -- he bets "the horses with these guys down there - "he can't help it but he can't do nothing "about it. But he's right in with ... "every time they get a knock -- you just "go down there and watch. About fifteen "or twenty minutes before the locals gets "down, everybody comes down - they go down- "stairs and thin out and they tell the "boys the locals are going to be here "in about fifteen minutes and they hang

"around the corner and go in the rest-
"aurant."

Now, what do you have to say about that statement attributed to Vincent Feeley?

A. It is not true.

THE COMMISSIONER: Well, it is a long statement.

MR. WILSON: Well, let's take part by part. Are you a horse better?

A. On occasion I go to the track for a day's sport, and in the last two or three years I have been about once or twice a year, and previous to that time two or three times a year, but I go there for the sport, and to make a nominal bet. I don't bet heavy, and I have no other interest. I don't gamble. I don't --

Q. Well, are you a gambler?

A. I don't know how. I wouldn't know one poker game from another, and I -- I wouldn't know how to shoot crap. I have never played cards in my life, only euchre on occasion, but I wouldn't know one poker game from another.

Q. Now, have you ever placed a bet off the track in the Niagara Falls area?

A. No.

Q. Since you became Chief of Police?

A. No, I haven't, or before.

Q. That is on the horses?

A. That is true.

THE COMMISSIONER: Or anywhere else?

A. Or anywhere else.

THE COMMISSIONER: Except at the track?

A. That is right, and I am a two dollar bettor.

MR. WILSON: Now, the Witness is represented by his Counsel. I don't know whether the Counsel wants me to ask any further questions. I don't know where his Counsel is.

THE COMMISSIONER: Mr. Martin is down at the end of the room, there.

MR. WILSON: Are there any further questions you want me to ask of the Witness at this time?

MR. MARTIN: No, thank you, Mr. Wilson.

MR. WILSON: That is all, thank you.

THE WITNESS: I would like to add something else, sir, if I could. During the operation of the Ramsey Club on Victoria Avenue, I went in there down to August. I was in the hospital when my Deputy Chief came up to tell me that the raid had been successful, and I went back in again, in the hospital, in November, a total of five months during 1958, and my Deputy was responsible, and had good men, they are all well-trained to look after things, for which they did, and we have been successful.

(Page 3132 follows)

B/AMD/1

MR. WILSON: Q. Who was in charge while you were in the hospital?

A. Deputy Chief Norman Byers, now deceased.

Q. And did you ever phone Joseph McDermott?

A. I never did, no. I don't know the man.

Q. Did anybody ever phone you and say to you, "Joseph McDermott speaking"?

A. Not to my knowledge, no. I get many calls during the year, but I never remember that name.

Q. And did you ever know Sergeant Anderson of the Ontario Provincial Police to come and see you?

A. I don't recall if -- I know he did come, and I was surprised that he did. He was there.

Q. What did he come about?

A. Well, I have known Sergeant Anderson for a number of years. I consider him an honourable man and a friend of mine.

Q. Well, on any occasion that he ever came to your office did you ever say to him, "Did I call you?"?

A. I don't recall -- he has been there so many times in the past, that I don't recall ever saying to him, "Did I call you?". In fact, when he did come for other business and I would see him there, we would have a talk just about police work.

Q. How did you get along with Sergeant Anderson and Corporal Shrubb?

A. Very good.

Q. On the basis upon which your force operates, do you, as chief constable, have information when raids are made on gambling establishments?

A. No. When I took over in 1949 I put the deputy chief in charge of all gambling and bawdy houses, bootleggers, and so on. He, in turn, instructed -- I told him that he in turn instruct the three patrol sergeants to go and pick up a warrant any time they wished, because most of our raids were held at night, and not to bother us, that I didn't want to know, and in the morning the report would be put on my desk as to the result. I never participated in any raids since I have been chief constable since 1949.

Q. Or did you ever have any knowledge in advance of any such raids in '49?

A. Rarely so.

Q. Rarely so?

A. During the day time if they were going to raid, say, a bawdy house or bookie, or something such as that, I might see them going out, but I wouldn't ask them. "Where are you going?", or, "What is this all about?", or anything like that. I had great confidence in my men. They were well trained. I have had three men

from my department have been made chief constables of other municipalities, and I am quite proud of that.

Q. Did you ever have any advanced information on property raids on the Ramsay Club?

A. I never did, no.

MR. WILSON: That is all.

THE COMMISSIONER: Any questions?

EXAMINED BY MR. MacKINNON:

Q. I wonder, Chief, if I could have that list of raids that you have prepared. I see you don't list the number of raids which your department carried out by itself. Do you know how many raids your department carried out without the assistance of the Ontario Provincial Police?

A. No, I do not. I have the deputy chief here. He may have some records. He has his briefcase with him.

Q. In my event, was it ever reported to you - you say you get the reports the next morning?

A. That is right.

Q. -- that the people who frequented this

club seemed to have some foreknowledge of the raid, that somebody was giving them to use, in their parlance, the "off"?

A. I wouldn't know that.

Q. But wasn't that reported to you, because these raids were not successful until the August 16th raid by the Ontario Provincial Police, isn't that right?

A. No, it wasn't reported to me. They kept going.

Q. What was reported to you, that the raids weren't successful?

A. I would have the report, I could read the report, but I wasn't able to lay a charge at that time.

Q. The reports were, to use the expression once again that has been used here, were "nil" until August 16th, weren't they?

A. August 16, you are speaking of 1693?

Q. I am speaking of the old Ramsay Club, 1693 Victoria Avenue, the reports were "Nil"?

A. As I say, during that whole month of August --

Q. I am talking about before August, June and July?

A. Well, even July, I wasn't in the office too much. I was suffering from cataracts of the eyes, and of course I went in and I had to wait for a bed, and I went in the hospital about the first week in August. I didn't go

back to work for a couple of months. I went back in the hospital again in November, and I didn't go back until after the New Year, I believe it was, around that time. Near that time, I am not quite sure, but I had both eyes, cataracts in both eyes, and had them both successful operations, thank the Lord.

Q. Well, you were asked whether you knew Joseph McDermott and Vincent Feeley, and you gave a negative answer to that, but our information is that the people who were then behind this Ramsay Club in August of 1958 were, among others, Albert and Louis Iannuzzelli. Did you know these people?

A. I do.

Q. And in what connection did you know them?

A. Well, Albert and Louis Iannuzzelli own what was called theHilltop Hotel, and they have a finance company on Main Street. And I believe they are interested in a dry cleaning plant.

Q. Were you aware at this time that they had some connection with the Ramsay Club? By "this time" I mean August of 1958?

A. No. No.

Q. Well, you say you know them;did you know them socially?

A. No.

Q. Or as criminals?

A. No. No, I did not, just as businessman.

Q. Did you know Ralph Agueicci at this time?

A. Yes.

Q. How did you know him?

A. I have known him for years, and from my reports he was a steward, I believe.

Q. At the Ramsay Club?

A. At the Ramsay Club.

Q. And he had a criminal record, did he?

A. He did, yes.

Q. And did you know Mike Vacaro?

A. Yes.

Q. How did you know him?

A. Well, I was born in the City of Niagara Falls and I know most of these people. I know Mike Vacaro since he was a child going to school.

Q. Were you aware of his connection with this Ramsay Club?

A. Reading the reports I could see that he was a "found-in". He was listed as a "found-in".

Q. To your knowledge did he have a criminal record of any kind?

A. Not to my knowledge.

Q. Then Scrip Mitchell, was that a familiar name to you?

A. Yes.

Q. And in what connection have you known Scrip Mitchell?

A. Well, there again he was a man that he never worked too much, and he was always seen out all hours of the day and night.

Q. Well, was he connected with the gambling crowd, to your knowledge, at this time?

A. Well, he was a bookmaker.

Q. You knew that much about him?

A. Yes.

Q. Did you also know he had an association with this Ramsay Club in August, 1958?

A. I couldn't say that. I wouldn't know that.

Q. Well, do you know Pete Sisco, and did you at this time?

A. Yes, I have known him all my life -- all his life.

Q. Were you aware that he was supposed to be the owner of 1693 Victoria Avenue?

A. I think he rented the Ramsay Club to those that were in charge.

THE COMMISSIONER: Q. Well, he was the owner of the building?

A. I don't think so, my lord.

Q. What do you mean, "he rented the Ramsay Club"?

A. Well, to his brother, I would say. His brother is the owner.

B/2

MR. MacKINNON: Q. I see. Now, has this 1693 Victoria Avenue been used as a gaming establishment or bookie establishment since the

closing of what we have called the 'Old Ramsay Club"?

A. We have had occasion to raid - in fact, in the last ten days we have raided the place and only found about from eight to ten men up in there, and they were playing at the time - I read the reports - and at the time they were just playing ordinary cards. There was no dice or no evidence of anything.

Q. But you had some suspicion of this particular place?

A. That is why I had the place raided.

Q. Then, when did you become aware that there was a New Ramsay Club operating? We have been advised that the Old Ramsay Club was raided on August 18, 1958, and it went out of business in the spring, '59. ---

THE COMMISSIONER: Q. Do you know anything about the Frontier Club?

A. No, I don't.

Q. Did you at any time know anything about a club ever there called the Frontier Club?

A. I believe there was one in Fort Erie.

MR. MacKINNON: Q. When did you first become aware that this Ramsay Club charter was being revived, as it were, and being used by another group of operators?

A. A few days after September 30th.

Q. What year?

A. 1958.

THE COMMISSIONER: Q. You learned something

a few days after September 30th?

A. My deputy chief, Norman Byers, told me. He came to my home. I was convalescing then from my operation.

Q. He reported to you what?

A. He reported to me that the Ramsay Club had opened. I informed the Police Commissioners by letter.

Q. Re-opened, you mean?

A. Re-opened, yes, my lord.

MR. MacKINNON: Q. Under new management?

A. Well, they re-opened, we didn't know who was in charge, but we conducted a number of raids there with the co-operation of the Ontario Provincial Police, and during from September 30, 1958, to June 7, 1960, when they closed. They periodically closed for renovations.

THE COMMISSIONER: Q. Between what dates again? They re-opened, you said you heard about it in September, '58?

A. Re-opened September 30, 1958.

Q. That is when you learned about it?

A. Yes, my lord. And was closed June 7, 1960.

MR. MacKINNON: Q. That was after Police Constable Wright had been arrested at the end of May, 1960?

A. I don't recall when he was arrested. I believe that was right, yes.

THE COMMISSIONER: Q. You started out to say

you conducted so many raids in that period. Will you tell me that?

A. There was twenty-eight raids.

MR. MacKINNON: Q. Over and above the fifteen involving the earlier Ramsay Club?

A. Yes, sir.

THE COMMISSIONER: Q. This is after it re-opened?

A. Yes, sir.

MR. MacKINNON: Q. Now once again, Chief, in any of the reports you received on these twenty-eight raids, was it suggested to you that the people who were running this club had advanced knowledge of your raids?

A. No.

Q. But once again none of these raids produced results in the sense that you were able to lay charges, is that correct?

A. That is correct, sir.

Q. Now, turning once again to this 1693 Victoria Avenue location, are you familiar with the Niagara Italian Frontier Club? Have you heard of that club?

A. That was -- Niagara Italian -- some years ago. I can't recall the exact year.

Q. Isn't it still in existence?

A. Niagara --

Q. Niagara Italian Frontier Club?

A. Niagara Italian. There was the Italo

Canadian Club, I recall that.

Q. At this location?

A. No. I don't believe they were open. If so, it wouldn't be too long.

Q. Were you aware that your deputy chief had laid gaming house charges against the Niagara Italian Frontier Club?

A. He could have, yes. He was in charge of all gambling.

Q. But you know nothing about those, can't help us as to the disposition of those charges?

A. I can't recall the disposition of those, sir. I could have possibly, maybe, had it.

Q. You stated you went to the race tracks; would these be tracks in the United States as well as in Canada?

A. I have been to Gulfstream when I have been on holidays, and Woodbine, Dufferin, Fort Erie, but just on occasions when I would have a day off, I would say. Maybe I would come to Toronto twice a year, go to Fort Erie. Fort Erie has been running now this year, and I haven't been up once.

Q. Would you go in company with other people to the race tracks?

A. Usually.

Q. Would you go, or have you ever gone with Arthur Jelly?

A. I was once, yes.

Q. He is a close friend of yours?

A. He is.

Q. Did Mr. Jolly ever speak to you about Joseph McDermott or Vincent Feeley?

A. No.

MR. WILSON: I think, Mr. Commissioner, there may be some witnesses who have been subpoenaed for to-day who should be asked to leave the hearing room.

THE COMMISSIONER: All right. Any witnesses in the courtroom subpoenaed for to-day will please retire.

MR. MacKINNON: Q. Did Mr. Jolly ever discuss gaming establishments with you?

A. No. No, sir.

Q. The Frontier Veterans Club was never the subject of discussions between the two of you?

A. Not to my knowledge.

Q. Now, where was the New Ramsay Club, as we have described it, located?

A. 1648 Stanley Street.

Q. And were you ever advised, or were you aware that the furniture from the Stanley Street location after the New Ramsay Club went out of business was thereupon moved to 1025 Centre Street?

A. Not to my knowledge.

Q. You were never advised of this?

A. No.

Q. Do you know who operates out of that

location at the present time? --

THE COMMISSIONER: What location?

MR. MacKINNON: 1025 Centre Street, Niagara Falls.

A. I can't recall it by number.

Q. Is Felix Borelli's name familiar to you?

A. Yes.

THE COMMISSIONER: Do you know him?

A. I do, my lord.

MR. MacKINNON: Q. Once again, in what connection do you know Felix Borelli?

A. There again I have seen him around the city throughout the years.

Q. Has he any visible means of support?

A. He has a poolroom.

Q. Now we will come to that. He just acquired that in the last week or so, didn't he, a licence?

A. No, he has had that for quite some.

THE COMMISSIONER: Q. How long?

A. I would say a year. About a year.

MR. MacKINNON: Q. Wasn't there some fuss recently in your council - by you I mean the Niagara Falls council - as to the granting of a licence to this man?

A. Well, I didn't approve of it.

Q. But isn't that right, am I not right in my question, was there not some fuss that Felix Borelli, about Felix Borelli getting a licence?

A. It was held up, but I wasn't at the council meeting. I didn't attend.

Q. But wasn't that fairly recently, that is all I am asking.

A. I would say about two weeks ago.

Q. Well, there was a question about a renewal of his licence?

A. That is right.

Q. And did you put in a report from your police department?

A. I did not. I just didn't approve of the licence.

Q. Well, did you oppose?

A. Well, when I didn't sign it, that means I was opposing.

Q. But there was no representative of your department present at the meeting?

A. No.

Q. To make a report on this matter?

A. That is right.

THE COMMISSIONER: Q. And was his licence renewed?

A. It was, my lord.

MR. MacKINNON: Thank you.

MR. WILSON: I will call Chief Constable Shrubb.

WILLIAM JACK SHRUBB, recalled.

FURTHER EXAMINED BY MR. WILSON:

Q. I think when we adjourned on Thursday you were just about to tell us about what occurred at Peterborough in July after you had made up, I think, your mind to accept the proposed transfer to District No. 8?

A. Yes, I was, sir.

Q. Now, what did happen when you went to Peterborough?

A. I made -- I had been in the Peterborough area on some other investigation, and on one occasion, I believe it was early in July, I went into the District Headquarters there.

THE COMMISSIONER: Q. What year is this? Early in July that year?

A. '58, my lord.

Q. You were still with the O.P.P.?

A. Pardon me, this was not in 1958, it would be in 1955. Yes, I was still withthe Ontario Provincial Police. And the first day I went there for the purpose of indicating to the Inspector that I had decided I would accept a transfer under the conditions we had discussed. He was present on the main floor of the headquarters building along with Staff Sergeant Clark and other officers. There was a brief discussion of just a general conversation, and I indicated to the Inspector that it was my

B/3

desire to speak with him, at which time he stated that he was just on his way out.

MR. WILSON: Q. You are speaking of Inspector Stringer, are you?

A. Inspector Stringer, yes. That he was just on his way out, and if there was something that they could assist us with, that Staff Sergeant Clark would be glad to oblige. With that, he left the building. We remained only a short time.

THE COMMISSIONER: Q. Who is "we"?

A. I believe I was accompanied by one or two other officers of the gambling branch at the time. And we left the premises, the headquarters, and returned to Toronto, as I recall. Then a few days thereafter ——

MR. WILSON: Q. Can you fix that date?

A. If I had my diaries. I don't believe there is any particular notation with respect to this occurrence, although it does indicate I was in Peterborough on those days.

THE COMMISSIONER: 115.

Q. You and these other officers were there on some police work that took you to Peterborough?

A. That is right.

Q. And when you say Stringer was on his way out, he wasn't evading you, he said if you wanted to get any assistance here, Staff Sergeant somebody, and named him, was at your service?

A. I asked to speak to him, and he

indicated if there was something we could be assisted with, that his staff sergeant would assist us.

Q. All right.

A. I believe this to be the first time, although, as I say, I have no notation of this particular occurrence here. "Miljus and self attended court at Peterborough."

Q. What date was it?

A. That was July 5th. Miljus was then a constable with the anti-gambling branch.

Q. All right, now we have got that, and you say a few days later something happened?

A. On July 7th, 1955, I was again in Peterborough accompanied by Constable Miljus and Constable Wright, and I note the purpose for which we were there.

Q. How do you spell "Miljus"?

A. M-i-l-j-u-s. And I close off the day's notation by the words, "Contacted Inspector Stringer and returned to Toronto." Now I believe this to be the day, July 7th, that I first went to the headquarters, and the Inspector was not there. I believe I spoke to Staff Sergeant Clark, and we subsequently went to the Y.M.C.A. This would be around 4.00 o'clock in the afternoon, I believe. We subsequently went to the Y.M.C.A. where I met Inspector Stringer, and I asked if I could speak with him. We went into a hallway at the - I believe it was off the shower room, and it was then that I told him that I had, after

having given heavy consideration to the proposal of which we had spoken, that I would accept it. He said this was fine, and for me to return to Toronto and go and see Staff Inspector Trimble, where I should tell him that it was my desire to go to the Peterborough District, that I wasn't as happy with living conditions in Toronto as I may be, and that I had discussed this matter with Inspector Stringer, that he would be glad to have me there, and he perhaps could assist in a transfer, and he would mention to Peterborough. It was then that -- when Peterborough was mentioned it was then that I knew that this was not as we had discussed previously whereby I would assume a duty along the lake front. I asked about that, and I asked about the part and the assurance that there would be an immediate promotion to the rank of a sergeant, and he replied that I would have to come to Peterborough first, and that the other matters would follow along at some later time. This answer was not what we had discussed, and was not to my liking in any way, and I merely stated to the Inspector that I would return to Toronto and advise -- and speak to Staff Inspector Trimble, and following that I left.

MR. WILSON: Q. Did you do anything more about the move?

A. No, sir.

(Page 3160 follows)

C/1/O'N

MR. WILSON:

Q. What conclusions did you come to after your last meeting with Inspector Stringer, as to his part in these discussions?

A. I felt that his first proposal was not a sincere proposal, in the first place. That was my opinion. I knew, or I had every reasonable assurance that if I had wanted a transfer to Peterborough or any other place because of my dislike for Toronto or working in the Gambling Branch, that all that was necessary for me to do was to so state to the then Commissioner, who was Commissioner McNeil. I had a previous meeting --- on the previous meeting, but it was at a time when I was first transferred onto the Anti-gambling Branch, and it was at a time when Sergeant Anderson and I had a meeting with him, and he gave us an assurance, in order that the Branch would function properly and efficiently, that ~~XXXXXXXXXXX~~ if we found there was ever a time that our interest wad no longer in the duties of the Gambling Branch that all we would have to do was ask him and he would see we were not harmed in the way of a transfer to a place to which we did not want to go.

Q. You are not suggesting, or are you, on what you have told us, that Inspector

Stringer was trying to get you out of the Anti-gambling Squad?

A. I must say this thought crossed my mind.

Q. In view of the last meeting you had with him, do you still suggest that there was anything in that?

A. Yes, that was my impression or that was the thought that went through my mind on my last meeting when the proposal was first made to me and the suggestions made at my last meeting with him did not jive in any way.

Q. But what took place at the last meeting didn't suggest to you he was trying very hard to get you off; isn't that a fair inference?

A. He then advanced it to me that I should be the one to represent myself through Staff Inspector Trimble.

Q. Exactly.

A. To the Commissioner, as not being satisfied in Toronto and it was I who was asking for the transfer to Peterborough.

Q. But I am asking you whether or not that suggested that he was trying, or was he trying very hard to get you.

A. I would say he was trying to get me -- he said I should tell Trimble he would be willing to have me and I would be the one to do the footwork in the matter.

Q. He gave you the impression he could work it all out with the Commissioner?

A. That is exactly right.

Q. It ended up, if you want a transfer here, you go to Trimble and see what Trimble will do for you?

A. Yes, that is basically what he suggested.

THE COMMISSIONER:

Q. Is it simply because of that, that you reached the conclusion he was -- that his real purpose was to get you out of the Anti-gambling Squad?

A. I felt he must have had some motive behind it and this was his motive.

Q. Nothing else led you to that conclusion except what he said.

A. That is right, sir.

MR. WILSON:

Q. On May 22nd, I think it was, 1958, you were having a lengthy telephone conversation with Vincent Veeley and there was a break in the line, as a result of which you found that the call came from CRescent 8-2538, Port Credit?

A. That is right.

Q. Following that date, you executed search warrants in the Bell Telephone Company to obtain records of calls from that number?

A. Yes I did, sir.

Q. And you gave us the numbers of

those calls -- or periods, rather, covered by the various warrants that you executed and Mr. Carty prepared a summary of those calls of which I am handing to you a copy of that summary. Have you checked the information set out in the summary with the actual toll tickets which you obtained from the Bell Telephone Company?

A. Yes, I have, sir.

Q. And is the information set out in this summary accurate?

A. I would say that it is. There might be a variation of a second or two in the interpretation of the time of a call, but other than that. I have made some changes but entered times of the calls as approximate times of the calls indicated on the toll tickets.

THE COMMISSIONER:

Q. It is substantially correct?

A. Yes, approximately.

MR. WILSON: That will be Exhibit 121.

---EXHIBIT NO. 121 - Summary of telephone calls.

MR. WILSON:

Q. This summary shows calls from Port Credit, CRescent 8-2538, May 13th, 1958, through to July 2nd, 1958, and on page five of the summary ---

THE COMMISSIONER: Is there a copy that I may have?

MR. WILSON:

Q. On page five of the summary there are listed some six direct-distance-dialled calls. Now, dealing first with the period from May 13th, 1958, to July 2nd, 1958, we will find that some are person-to-person and some are simply station calls.

Now I will read this list and you check it with the copy you have.

A. Starting at page one?

Q Starting at page one, yes sir.

This summary shows in the first column on the left, the number from which the call was placed which, in each case, will be Port Credit, CResecent 8-2538. And in the column underneath that column appears the word Costello. What is the significance of that?

A. Costello is the name of the subscriber to that telephone service.

Q. The second column shows the number to which the call was placed.. The third column shows the name of the person to which the call was placed, or the ---

A. Subscriber.

Q. Subscriber at that number. The fourth column shows the date of the call. The fifth column the approximate time of the call. The sixth column the length of the call. The seventh column the charge. The eighth column the operator and the ninth column the class.

That is, personal or station-to-station.

Now dealing with these calls, I will, of course, not repeat ---

THE COMMISSIONER:

Q. What is the N? What does the N stand for?

MR. WILSON: N stands for station-to-station.

THE COMMISSIONER: Is that right, Witness?

A. This is part of the toll ticket. I never went into it too much and I don't believe I am prepared to explain that. That is the only part. Never, in my dealing with the telephone company, did I go into the trouble to determine what that meant.

MR. WILSON:

Q. What does PN signify?

A. I am in the same place there.

Q. What does IN signify?

A. I don't know. And all those notations in the column, I am in no way prepared to explain.

Q. These letters that appear under the class ~~ixkxx~~ heading or column are actually taken from the toll tickets, themselves?

A. Yes sir.

Q. Well then, starting with the call to Fort Erie, 1955. Can you tell us whose number that is?

A. That is the number registered to

the club which operated in Fort Erie at that time.

Q. And the club, on May 13th, 1958, did operate with the name Frontier Veteran's Association?

A. I believe that is what it was known as at that time. No, not in 1955, in 1958.

Q. We are talking in 1958.

A. Yes. 1955 was the phone service for the club, but I am not sure of the name of the club that operated at that time.

Q. There wasn't any other club we were concerned with in May, 1958, except the Frontier Veteran's Association.

A. That is right, sir.

Q. Now, a call was made on May 13th, 1958, at approximately 11:45 p.m. and lasted 3 minutes and 17 seconds.

The next call was to Fort Erie, 1955, which is again, the club.

A. Yes.

Q. The Frontier Club. On May 13th, 1958 ---

THE COMMISSIONER: The same date?

MR. WILSON: The same date. I notice here it is second, while in point of time, it was first. 9:45 p.m. and it was for 2 minutes and 40 seconds.

Q. The next call on May 13th, 1958, was to F.B.O; is that Peterborough?

C/2/O'W

A. That is Peterborough.

Q. Peterborough, RI, which I think we have been told is Riverside, 56310, and that number belonged to whom at that time?

A. That is the residence phone number of Inspector J. A. Stringer. This was a person-to-person call.

THE COMMISSIONER:

Q. How do you know?

A. To a person by the name of Springer. Because of the notation in the column on the toll ticket which says "person".

MR. WILSON:

Q. I think the toll tickets, Mr. Commissioner, should be filed as an Exhibit.

THE COMMISSIONER: Do that later.

MR. WILSON:

Q. The time, approximately 11:00 p.m. and the time was 13 minutes?

A. That is correct, sir.

Q. The next call was to Cayuga, 62M on May 13th, 1958, at approximately 10:30 p.m. and the time was 17 seconds?

A. Yes sir.

Q. Now, to whom was that call assigned at that time?

A. Corporal A. Smythe.

Q. And who was he?

A. He was a Corporal in the Cayuga detachment of the Provincial Police.

Q. Cayuga detachment, but it embraced the area in which the Frontier Veteran's Club was operating?

A. No, it didn't. Cayuga is in Haldimand County and the club property was in Welland County. Corporal Smythe at one time was the Corporal in charge of the Bertie Township.

Q. He was originally.

A. Yes, until such time as Bertie Township -- this is my understanding -- was formed.

Q. That would be the first of January, 1959?

A. I am not sure of the date of that. 1958, I believe.

Q. 1958?

A. Yes.

Q. Now, Corporal Smythe subsequently died?

A. Yes, I believe that.

Q. Now, the next call was to Weston, CHerry 4 --- I take it, that is CHerry?

A. Yes.

Q. XXXXXX 46276? That was on May 13th, 1958, at approximately 8:30 p.m. and lasted 1 minute and 25 seconds. To whom was that number?

A. I do not know.

Q. You didn't check on that?

A. No, I don't believe that I did. If I did, I have no record of it, I don't believe.

Q. Well, we will come back to that later. The next call was to Fort Erie 1955.

THE COMMIASIONER: Excuse me. All these calls you have thus far dealt with were on May 13th, between 8:30 p.m. and 11:45 p.m.?

MR. WILSON: That is correct, Mr. Commissioner.

THE COMMISSIONER: Yes.

MR. WILSON:

Q. Now, I am going to deal with seven calls on May 14th, 1958, starting at 5:45 -- 4:30 p.m. and ending at 11:00 p.m.

The first was Fort Erie 1955, which was the Frontier Club, at approximately 9:30 p.m., for 2 minutes and 17 seconds.

The next call was to Fort Erie 1955, which again was the Frontier Club, at approximately 11:00 p.m., for 2 minutes and 37 seconds.

The next call was to Scarborough. What does PL stand for?

A. Plymouth.

Q. Plymouth 9-3007, approximately 11:00 p.m. and last ed 1 minute. Whose telephone was that?

A. It was an unlisted telephone listed to former Constable Robert J. Wright.

THE COMMISSIONER:

Q. An unlisted telephone listed? What do you mean?

A. It was an unlisted service, my lord, but registered to former Constable Robert J. Wright, who was then a member of the Anti-gambling Branch.

THE COMMISSIONER: Alright.

MR. WILSON:

Q. Well, the next call was to Niagara Falls, Ontario, and what is EL?

A. ELgin.

Q. ELgin 41398?

A. That is right.

Q. Did you find out who was the subscriber at that number?

A. If I did, I have no record of it, sir.

Q. Well, we will come back to that later. The next call is to Niagara Falls, ELgin 44874, at approximately 4:30 p.m., for 5 minutes.

A. Yes sir.

Q. Who is the subscriber for ELgin 44874?

A. Felix Barelli.

Q. Next call was to Niagara Falls, Ontario, ELgin 44874, at approximately 5:45 p.m. and for 1 minute and 27 seconds. And that, again, is to Felix Barelli.

A. Yes sir.

Q. The next call was to Fort Erie, 1955, at approximately 10:00 p.m. for 1 minute and 32 seconds, and that, of course, was the Frontier Club.

A. Yes sir.

Q. The next calls are on May 15th. There are two in number. Both to Elgin 44874, which is Felix Barelli. The first call was at 1:00 p.m. and lasted 57 seconds, and the second call was at 6:30 p.m. and last for a minute.

The next two calls were on May 18th, 1958, and were both to the Frontier Club at Fort Erie 1955. The first at 1:00 a.m. for 4 minutes and the second at 6:00 p.m. for 40 seconds.

On May 19th, four calls are recorded. The first two to Fort Erie, 1755 which is the Frontier Club. The first at 10:00 p.m. for 1 minute and 5 seconds. The second at 11:45 p.m. for 4 minutes.

The next call on May 19th was to Peterborough, RIverside 56310, which you have told us was Inspector Stringer, was at 6:30 p.m. and lasted 5 minutes.

The fourth call on that date was to Niagara Falls, Ontario, Elgin 45071, at 11:00 a.m. for 5 minutes. And the subscriber there was whom?

A. Identified as Jolli.

Q. That is Jolli? J-o-l-l-i-e?

A. Yes, that is the person called. Jolli.

Q. That is right. That was a person-to-person call?

A. Yes, sir.

Q. And the last one we dealt with, to Stringer, that, too, was a person-to-person call?

A. Yes sir.

Q. And then coming to May 20th, we find there is one call to Scarborough, Amherst 18884, at approximately 9:45 p.m. for 17 minutes. Now, that is your number?

A. Yes sir.

Q. That is one of the calls you have told us about.

A. Yes sir.

Q. Now on the 21st of May, 1953, we have ten calls, if I am right. The first on that day to Smithville, 77, at 11:30 a.m. for 2 minutes. Who was the subscriber for that number?

A. I, at that time, took a directory which I had, and the number of Smithville 77 was shown to be registered to J. N. Davis. This particular toll ticket, in the first instance, was routed to Cayuga 77 and this was subsequently changed on the ticket to Smithville

77.

Q. Well then, the next three calls that are noted here, in the order that they appear, are all to Port Erie 1955, the Frontier Club. And the particulars of that, again in the order they appear here are 9:00 p.m. 1 minute. 12:45 a.m. 8 minutes. 11:30 p.m. 10 minutes.

The next call was to Windsor. What does CL stand for?

A. CLearwater.

Q. CLearwater 28645, 7:45 p.m., for 7 minutes. Who was the subscriber at that number?

A. Frank Gardiner.

Q. The next call was, again, to Windsor, CLearwater 28645, at 11:00 p.m. for 5 minutes and that, again, would be Frank Gardiner.

A. Yes sir.

Q. The next call was to Niagara Falls, Ontario, ELgin 44874, 12:15 p.m. for 13 minutes and was a person-to-person call to Felix Barelli.

A. Yes sir.

Q. Is there some error in the spelling?

A. No, it says Barelli. Now, there are different Barelli's in Niagara Falls.

Q. But the number you have told us

there is the number ---

A. For Felix Barelli.

Q. For Felix Barelli. The next calls---

THE COMMISSIONER: The next three are to him.

MR. WILSON: Yes, the next three are to the Witness.

Q. AMherst 10884. The first one for 67 minutes and 18 seconds with no time given. The next at 9:45 p.m. for 67 minutes, and the last of these three at 10:30 p.m. for 26 minutes. And those are all calls to you.

A. Yes sir.

Q. Which you have told us about.

A. Yes sir.

THE COMMISSIONER:

Q. Did some of these calls last over an hour?

A. Yes. There was one there that lasted over an hour. 67 minutes, and that is why I believe there are three tickets on that date. Two of the tickets indicate over an hour because of the device of the Bell Telephone Company for stamping tickets.

MR. WILSON:

Q. Sixty-seven minutes and 18 seconds. The 67 minutes would be the same call by reason of their method of entry. They break it down into two?

A. They appear on two tickets, together.

Q. Now, we come to May 22nd, 1958. There are five calls recorded on that date. The first -- maybe to save time I need not repeat the numbers. The first to the Frontier Club at 10:00 p.m., for 14 minutes. The next to Niagara Falls, Ontario, ELgin 45071, Jolli, at 10:15 p.m. for XXX one minute. And that is a person-to-person call.

The next three calls on May 22nd are to you, at Scarborough, AMherst 18834. The first at 10:30 p.m. for 58 minutes. The next 11:50 p.m. for 19 minutes, and the third at 10:00 p.m. for 1 minute.

A. There was one of these calls, I believe on this date, when he stated that he felt he had another call to answer and caused the call to be discontinued at this time and very shortly thereafter he called back and continued. I believe that was the 22nd.

Q. It was also on that date you got the break in the line?

A. This may have been the date for the break in the line, yes.

Q. I am sorry. It was on May 21st you got the break in the line.

A. One day there was a break in the line and another day he interrupted the call, himself. He had another call to take or

something of that nature.

Q. That we see is 67. We have the initial CTO.

A. Cut off.

Q. Yes, that is a cut-off?

A. Yes.

Q. On the 23rd of May we have three calls recorded. The first two to the Frontier Club. One at 1:00 a.m. for 9 minutes and another at 10:00 p.m. for 15 minutes. The third call on that date is to Niagara Falls, to Felix Barelli's number at 11:00 a.m. for 1 minute.

On the 24th of May there is one call to the Frontier Club at 1:00 a.m. for 5 minutes.

On the 26th of May there is a call to the Frontier Club at 11:30 p.m. for 21 minutes.

And then turning to the next page, apparently there is a call that is listed out of order. It is to Felix Barelli under date of May 14th, 1958, at 5:45 p.m., for 1 minute and 27 seconds.

The next date is May 28th, 1958, and there are two calls to the Frontier Club. One at 1:30 a.m. for 8 minutes, and the other at 12:30 a.m. for 8 minutes.

The next call is a date in June of 1958 to a Renfrew number and possibly if I read that out, Mr. Commissioner?

THE COMMISSIONER: Yes.

Q. What does HE stand for?

A. I am not familiar.

MR. WILSON:

Q. HE 24513, Jim Maloney, June 1958, at 11:00 a.m., 1 minute and 20 seconds.

MR. MacKINNON:

Q. Is there any date for that on the stamp?

A. No.

MR. WILSON:

Q. These are all the particulars you found on the toll ticket?

A. Yes sir.

Q. And the next call is June 3rd, 1958, to Scarborough. What is P1?

A. P Lynouth.

Q. Plymouth 56150, at 8:00 p.m. for 3 minutes. That was a personal call. Did you find out who that subscriber was? I see it just says "Elizabeth" here?

A. Yes. That phone is listed to a person by the name of Mather, and we, at that time, had working in our office as a stenographer, a Miss Mather and her name was Elizabeth. This service Plymouth 56150 was billed at that time to E. Mather, 1845 Victoria East, Scarborough, Ontario, and our stenographer's name was Elizabeth Mather and she had just moved from one residence to

another at that time, in and about that time.

Q. At the date of this call was she at this number?

A. Plymouth 5, 6150. That is not her phone number. That wasn't her residence. She moved to an apartment up someplace off Yonge Street near the Mount Pleasant Cemetery.

Q. This is recorded as a personal call.

A. That is right.

Q. And how does it show on the toll ticket? Does it show it to this number?

A. It shows as a personal call to Elizabeth at PLymouth 56150, yes.

THE COMMISSIONER:

Q. I was just going to remark in the last call somebody was mistaken. No one of that name at that number.

A. Yes, someone has recorded in the bottom of the call ticket:

"No one of that name at PL56150,"

and then there is a notation:

"Again party on line".

The way I would interpret that, if I may -- if I am not qualified, I had better not speak.

MR. WILSON:

Q. There is a charge for the call?

A. Yes.

Q. A personal call.

A. Yes.

Q. What is the notation on the toll ticket:

"Again party on line"

A. "No one of that name at FL56150, again part on line". I would explain this that a person-to-person call has been made to Scarborough, Plymouth 56150, and the party, as asked for, Elizabeth, and the person who answered to the operator said:

"There is no one of that name at this number",

and the operator -- and the party calling said:

"I will speak to the party on the line". That is the way I interpret that ticket. If that is not right, certainly I can be shown to be wrong.

THE COMMISSIONER:

Q. Perhaps it is an educated guess.

A. I would think -- I have read a great many toll tickets and have had conversations with Bell employees with this type of thing, and that was my interpretation of the ticket, your lordship.

MR. WILSON:

Q. Bridgeport, Connecticut. What is that, CH 8 0261, Mrs. J. F. Crowley, June 4th, 1958, 1:00 p.m. for 11 minutes. That is a person-to-person call.

A. That is?

Q. It is 11:00 p.m. Did I say

11:00 a.m.? I am sorry, it is 11:00 p.m. The next call on June 5th, 1958, was a call to Niagara Falls, Ontario, ELgin 49071 to Arthur Jolli at 7:00 p.m. for 5 minutes. I say "Jolli". You'd better look at that toll ticket. That looks like JLTTY, here.

THE COMMISSIONER: The phone number is Jolli, shown on page two.

THE WITNESS: The toll ticket shows quite clearly, Arthur Jolli,

C/A/O'N

MR. WILSON: I see.

Q. The next one on June 7th, 1958, to Willowdale, BAldwin 14793, this is at 9:30 p.m. and last/for 1 minute, and you have recorded that that number is listed to a senior member of the legal personnel of the Attorney-General's Department.

A. I believe that to be so, yes.

Q. The next call ---

THE COMMISSIONER:

Q. What is on the last column there? "Memo"

A. Well, I asked the employees in the Bell Telephone at that time what that notation may be, and this was at a time when the Metro area was converting to direct-distance-dialling within Metro, itself, and their explanation was that the operator had perhaps tried to educate the caller to the use of the direct dialling equipment and that the caller

may have said to place the call in the previous manner for the fact that they had bad eyesight and the new system required that much more dialling. That is the explanation the Bell employee gave to me.

MR. WILSON:

Q. The next call, June 10th, 1958, to Scarborough --- to you, in fact.

A. That is right.

Q. Which is at 8:30 p.m. for 2 minutes?

A. That is right.

Q. Now, on the next call, it doesn't appear to have a date.

A. Before we leave that. Where it says "unwilling" on that ticket, I may say this is a similar explanation that the Bell staff gave me, that the party placing the call may be unwilling to use the direct-dialling equipment by having to dial that much more. That is the explanation given.

Q. They went through the operator?

A. Yes. They changed from just dialling 0 to the direct-distance-dialling method and they required that much more numbers to be dialled.

--- Short recess at 12:10 a.m.

(Page 3190 follows)

D/FJM/1

---On resuming after recess:

MR. WILSON: Q. We were just starting on page 5, I believe; is that so?

A. Yes, I believe so.

Q. The first one on page 5, there is no date for it. Is there no date on the toll ticket?

A. That's right, sir.

Q. And it is to the Frontier Club, 11.00 p.m., for 4 minutes. The next call is on June 13th, 1958, the Frontier Club, at 12.00?

A. Midnight.

Q. For three minutes and 55 seconds?

A. Yes.

Q. The next call is on June 19th, 1958, to Niagara Falls, Elgin 4-5071, Jolly, at 7.00 p.m. for 4 minutes. Then finally in this group, will you just explain the reference on this last one?

A. I would have to look at the ticket here.

Q. Maybe we better have the particulars from the ticket?

A. I believe that to be a telephone call made on July 2nd, 1958, from a telephone, Crescent 8-9225 and billed to Crescent 8-2536, the call having been made by a person who identified himself as Fred Poole, with the call having been made to Oakville, Vi.5-4281, and

having been made to Oakville, VA 5-4831, and identified himself as Fred Poole, with the call the call having been made by a person who Crescent 8-2525 and hitled to Crescent 8-2536, call made on July 2nd, 1959, from a telephone,

A. I believe that to be a telephone there.

Q. Maybe we better have the particulars

A. I would have to look at the sticket

with you after explain the reference on this last one?

for 4 minutes. Then finally in this group, to Niagara Falls, Elgin 4-3071, 3011y, at 7.00 p.m.

Q. The next call is on June 10th, 1959,

A. Yes.

A. midnight.

1959, the Promotor Club, at 12.00?

A. That's right, sir.

Q. And it is to the Promotor Club, 11.00

page 5, I believe; is that so?

A. Yes, I believe so.

Q. The first one on page 5, there is no

date for it. Is there no date on the toll

sticket?

MR. WILSON: Q. We were just starting on

---Cross-examination by Counsel:

that the call was of 14 minutes' duration, with a charge of 30 cents, and made at approximately 2.00 p.m. in the afternoon.

Q. Well, you have not got any name for the subscriber?

A. No, I haven't, sir.

Q. Then dealing with the direct distance dial calls, the first is to Niagara Falls, Elgin 4-4874. Is that Felix Borelli's number?

A. Yes, sir.

Q. There are no dates on these? Or are there?

A. Yes, it would be the 13th of June.

Q. Then the next is on the 14th of June. There are two calls to the Toronto Flying Club?

A. Yes, one being a pay outlet and the other being a business service.

Q. The next one ---

THE COMMISSIONER: Q. A what?

A. A business service.

MR. WILSON: Q. The next one is to Thornhill. What is that exchange?

A. I believe it to be "Avenue". It is "Av".

Q. "Av 5-2735 on June 4th, at 7.30 p.m., for one minute. The next one is to Willowdale, Baldwin 1-4793, on June 5th, at 5.39 p.m. for two minutes.

MR. MacKINNON: Did you get the Thornhill name?

MR. WILSON: Q. Did you get the name of the Thornhill subscriber?

A. Yes, I did. Avenue 5-2735 is listed to Walton C. Rose, 16 Helen Street, Thornhill, at that time.

Q. And the Willowdale number you have already told us was listed to a number of the senior legal personnel of the Attorney General's Department?

A. I believe that to be so, sir.

Q. Then, finally, there is a call to Weston, to Me. What exchange is that?

A. I don't know. Perhaps it is Melrose.

Q. Melrose 3-9764 on September 12th. Did you find out who the subscriber was for the Melrose number?

A. No, I didn't, sir.

THE COMMISSIONER: You better file the toll tickets.

MR. WILSON: Yes, sir.

Q. You have toll tickets covering these calls?

A. Yes, I have, sir.

Q. Have we them all together?

A. Yes.

MR. WILSON: We will file them as Exhibit 122.

THE WITNESS: Those envelopes contain all the toll tickets we have referred to and the direct distance dial statements and anything else pertaining to them, all of which have been with

them for some time.

THE COMMISSIONER: Exhibit 122.

---EXHIBIT NO. 122: Envelope containing toll tickets and direct distance dialling statements.

MR. WILSON: Q. You have retained these original toll tickets, I take it, in your possession from the time you made the seizure?

A. These are not originals. These are copies that were made available to me from the originals by the Bell Telephone Company.

Q. Well then, did you ever make any report to the Commissioner on the result of your seizure?

A. No, sir, I didn't.

Q. That would have been normal procedure, I take it?

A. Well, I could have reported it, let's put it that way, but I didn't.

Q. Well, this was information that you obtained in the course of your normal police duties?

A. Yes, sir.

Q. And you obtained copies of all the toll tickets, which copies you are now producing?

A. I obtained them, yes.

Q. But no copies were filed at headquarters?

A. No, sir.

Q. And no report was made to the

Commissioner of the information contained in these toll tickets?

A. No, Sir. Sergeant Anderson knew of them. I showed them to him. We both knew and there was no report made.

Q. What was the reason for non-disclosure or the failure to report at that time?

A. Because of the fact that we had tried over the time I had been with the Branch and unsuccessfully to bring about prosecutions at the clubs which were operating within the province, some of the clubs. Information which had previously been submitted by way of reports was freely coming back to myself. There are names, which is evident from some of this material mentioned there, and while certainly I would hate to take one name in its one appearance and attach anything to it, those names were available. They were varied. They were from many places. And I think that my thought was, well, this is a problem we are living with; it is one we are going to have to fight ourselves, and fight alone.

I was quite prepared to retain this material and if I was to be called upon or criticized for anything which I had did, I was quite prepared to stand on my own and bear the full responsibility for it.

THE COMMISSIONER: Q. What do you mean, this was a problem we had to live with? Who is

the "we"?

A. Those of us who were working in the gambling branch and who, as I thought, were working for one common goal, and that was to suppress whatever gaming and gambling and betting there was taking place as we knew it, and certainly the major clubs or what we felt were major clubs in the province. This was foremost in our minds, I would say, almost all the time and this is where we seemed to run up against all of our opposition.

Q. Well, I suppose you retained them with some purpose in mind?

A. Yes, I did, sir.

Q. You had a reason. Now, what was the purpose?

A. I was always of the opinion that there may some time come the day when we could more readily put our finger at the source of our problem, if I may say that, or that source which seemed to be opposing our efforts. I had come to the conclusion that if we did it ourselves, then we would know or it might take a lot longer, or at least I felt we could depend upon ourselves anyway.

Q. Were you building up a case for a future date?

A. In a way, it would look that way, I suppose.

Q. No, no; is that what you were doing?

A. I would say yes, that that would have to be one of the thoughts in mind.

Q. Was it one of the thoughts in mind?

A. I would say yes, it was, sir.

Q. Well then, this was of a pattern with the reports that you retained, that you told us about?

A. Actually, my Lord, I only prepared one report and did not submit it.

Q. Well, I am thinking of the one, that particular one?

A. Yes. It is difficult -- with that report it is difficult to have to go to a superior and there are names there and what-not. You mention names -- I found it difficult to have to go to a superior to say these things, but then again I felt we had to protect ourselves too.

D/2

Q. Protect yourselves against what?

A. Against ourselves.

Q. Protect yourselves against yourselves?

A. For things which we may do which were or which may not prove to be one hundred per cent within the policies of the Department but yet to be able to explain it, if we were asked why we hadn't done certain things.

Q. Can I group your private diary, that report to the Commissioner, and I have forgotten the exhibit number of it right now, the joint report, Exhibit 105, and these telephone calls together as part of the material that you were

gathering for use on some future date?

A. I would associate the same thought with them all.

MR. MacKINNON: Excuse me, Mr. Commissioner; I think you have the wrong exhibit number. Exhibit 103, as I understand it, is the report he did submit to the Commissioner.

MR. WILSON: Exhibit 112, I think, is the correct one, Mr. Commissioner.

THE COMMISSIONER: Yes, that's right.

Q. Now, was there any other material that you were gathering together for use on some future date?

A. I don't think there was, that I never reported upon in some form, my lord.

MR. WILSON: Q. As a police officer, are you of the opinion that an investigation of these calls made shortly after the seizure of these toll tickets would have been more fruitful than possibly some investigation made in April of 1961 or after that date?

A. I don't know as it would have.

Q. But at the time you gathered this information you didn't see fit to pursue it and try to evaluate the significance of it?

THE COMMISSIONER: Q. Nor allow anybody else to pursue it?

A. I pursued it as far as I could, I would say. Maybe not in all aspects of it but I did -- I constantly had it in my mind and

if an opportunity presented itself I pursued that phase of it which I could at the time.

MR. WILSON: Q. You didn't ---

THE COMMISSIONER: Q. Just excuse me a moment. I want to round that out. Over a period of time you were suspicious of some interference?

A. Yes, Sir.

Q. You kept gathering information that you thought would support your suspicions?

A. I did. It has been asked if I advanced this, if I were to advance these phone calls when I found them, I don't know who at that time would have been in any more of a position to go further with them than what we could ourselves.

Q. Well, I guess what might have happened, and it is a mere possibility, take the item on page 4. Have you it in front of you there?

A. Yes.

Q. Page 4, the second last item?

A. Yes, sir.

Q. If that had been brought to the person to whom that telephone was listed, he might have been able then to refresh his memory as to perhaps where he was at the time and if he did have any telephone call what the nature of it was?

A. I can appreciate that, my lord.

Q. Now, how many years have gone by since then?

A. Quite a few.

Q. Quite a few years. Well, it is rather embarrassing to that particular individual now to ask him to try to recall what that may have been or to give some explanation for it?

A. I can appreciate that.

Q. Didn't that occur to you at the time you were gathering this information and retaining it?

A. I don't believe that it did, sir.

Q. Well, it is a reasonable criticism?

A. Yes; I can appreciate that too.

THE COMMISSIONER: All right, Mr. Wilson.

MR. WILSON: Q. And the first time that you disclosed this information about these various calls from this particular number was in a report you made to Inspector Harold Graham in April, 1961?

A. That is not the first time that I disclosed them, no. As I have said all along, Sergeant Anderson and I were aware of them.

Q. I should have qualified it in that way. You have told us again and again that anything you did you kept Anderson informed of it?

A. Yes, I did.

Q. But to any superior officer other than Anderson, your first disclosure was to Inspector Harold Graham in April, 1961?

A. Yes, that's right.

Q. And that was during the course of the preparation of the case for the Crown against Wright, McDermott and Feeley?

A. Yes, sir.

Q. Now, you are familiar undoubtedly with the Police Act?

A. Yes, I am, sir.

Q. Revised Statutes of Ontario, 1960, Chapter 298. I am handing you a copy as amended to January, 1962, including the General Regulations, and under the General Regulations there is a code of offences. The offences against discipline are as follows; under the heading "Discreditable Conduct" these regulations apply and did apply to the operations of the Ontario Provincial Police, did they not?

A. Yes, sir.

Q. "1. Acting in a disorderly manner "or in a manner prejudicial to discipline "or likely to bring discredit upon the "reputation of the police force."

Then I go down to the heading: "Neglect of Duty", which is clause 9:

"Without lawful excuse neglecting "or omitting promptly and diligently "to perform a duty as a member of the "police force."

And then I go down to paragraph 14 under the heading: "Neglect of Duty", and this appears:

"Failing to report a matter that there is
"a duty to report."

And then paragraph 15 under the same heading is:

"Failing to report anything known
"concerning a criminal or other charge
"or failing to disclose any personal
"evidence or evidence that any other
"known person can give for or against
"any prisoner or defendant."

Now, having those Regulations in mind ---

THE COMMISSIONER: Well, why stop there, Mr. Wilson? There is No. 16 also.

MR. WILSON: Yes, I was going to refer to that, Mr. Commissioner. I might just as well do it now.

"16. Omitting to make a necessary entry
"in any official document."

Having those Regulations in mind that I have just referred to, do I understand that you have given us all the explanation that you can give us as to why you adopted the course of conduct you did adopt in secreting this information that you had obtained for some period of years?

MR. MacKINNON: He didn't secrete it.

MR. BREWIN: Just a minute.

MR. MacKINNON: He told us his superior ---

MR. BREWIN: Just a moment. My friend ---

THE COMMISSIONER: Just a moment, Mr. Brewin. Are you acting for this witness?

MR. BREWIN: No, I am not, sir, but I do ask that the question be put fairly to the witness.

THE COMMISSIONER: Well, I will be the judge of whether it is fair or not.

MR. BREWIN: Well, Mr. Commissioner, I wish to put my objection on the record. I think as counsel I have the right to state my objection and say that it is unfair. It is your duty to rule on it. That is my submission, sir.

THE COMMISSIONER: I do not think at the moment it is unfair. He retained it. He told Anderson about it and no one else.

MR. BREWIN: It was the words "secreted it" to which I objected. He told his superior officer, Mr. Commissioner.

MR. MacKINNON: That's right. I wish my friend had given me these Regulations before.

MR. BREWIN: This might have been interesting when Inspector Stringer was in the box.

MR. MacKINNON: Yes, I would like to have had these Regulations when Inspector Stringer was in the box.

MR. BREWIN: He is trying to discredit this witness.

THE COMMISSIONER: I do not believe he is trying to discredit him. He is pointing out the facts.

MR. BREWIN: That is my submission, in any event, my lord, that he is seeking to discredit this witness in an unfair manner. If you do not

agree, that is the end of it.

THE COMMISSIONER: Well, at the moment, I do not agree.

MR. WILSON: Q. Am I right in saying that the extent of your disclosure in regard to these telephone calls was to Anderson and that it was an understanding between Anderson and yourself that that was as far as theinformation would get as far as the Ontario Provincial Police were concerned?

D/3

A. I would say I had no intention at that time of putting it in a report. And ---

Q. Now ---

A. Please let me continue. I am aware of these sections of the Police Act which you have referred to. As far as I am concerned, and in my layman's interpretation, Section 15 does not apply at all. I never at any time retained anything that had anything to do with the suppressing of evidence against a prisoner or a defendant.

If I did anything that was a contravention of the Police Act it may be included in any of the other three sections referred to. But I was quite satisfied that if I were to be charged with an offence against the Police Act for anything which I did, then I was prepared to stand on my own two feet and to argue it in that same light. And if I was to be disciplined for it, and it was not to be understood as to

what my explanation was, I would have been happy to have left that force.

Q. Well, all I want to do is to get the record straight. Am I right in saying that the extent of your divulgements of this information, the extent to which you told anybody, was Anderson?

A. That is exactly right.

Q. And it was a clear understanding between Anderson and yourself that it would go no further?

A. If it had went further it would have went by way of a report from me. I don't hold Anderson responsible for this at all.

Q. I am not asking you to hold Anderson responsible for it but I want to get it clear. Was it an understanding between Anderson and yourself that that was as far as the information was to go?

A. Yes, I believe it was. If it went further, then a report would have been forthcoming from me.

Q. And that you have given us all the explanation that can be given, I take it, for the course that you adopted?

A. Because of the arousing of my suspicions then and previously.

Q. All I want to do is to give you the opportunity of giving any other explanation or any further explanation than what you have given us?

A. I don't know that there are.

MR. MacKINNON: Is my friend referring -- I am a little confused as to what period he is covering -- is he covering just the telephone calls of May and June of 1958 that we have gone into this morning? If he is covering earlier periods, there are reports that I propose to bring out if my friend doesn't that this gentleman did make, written reports.

MR. WILSON: I was directing my questions to these telephone calls -----

THE WITNESS: No, no, I wouldn't single it down to these telephone calls at all. I would say my experiences up until the time of these.

MR. WILSON: Q. But we have already heard you tell us about the secretion or the retention of the report of September 18th, 1956?

A. Yes, sir.

Q. And also we have heard you tell us about what you call another diary or a further diary?

A. Yes, sir.

Q. Which you started by an entry on June 3rd, 1958?

A. Yes, sir.

Q. To record things that you didn't want others to see?

A. That I wasn't prepared to put in a report form and submit in the normal course of the submission of reports.

THE COMMISSIONER: Q. Well, just a moment.

Did it occur to you at the time that it might on of those dates have been advisable to go directly to the Commissioner and have a heart-to-heart talk with him about this whole matter, pointing out your suspicions and all that sort of thing, rather than retaining this information over the years?

A. I can appreciate it. Maybe it would have been the smart thing to do. If I had to do it over again, I don't know what I would do, but the fact remains I didn't do it then, and if I have erred, I have erred.

Q. I am saying to you, did it occur to you at that time -- I will put it to you this way: Why didn't you go directly to the Commissioner, laying all the cards on the table, telling him what your suspicions were, producing this evidence that you had gathered, and leave it to the Commissioner to clean up any mess that there was in the Department rather than you being ---

A. This is probably so. I had been to the Commissioner on one occasion and I acquainted his office at that time with some material which was available. I had submitted other reports on other matters and I never -- once the report left my hand I never was asked to speak about it again.

Q. Well, that couldn't be charged to you, could it?

A. No. Sure, the cleanest way would have been to lead it on to somebody else. That probably would have been the proper way to do it and at least leave myself out of the position which I am in right now. But I didn't do it, the fact remains. As I said, if I am to be criticized for it, then I am prepared to take that criticism.

MR. WILSON: Q. But you had from time to time very definite objection in your own mind to the policies that were being carried out by the Force on the instructions of your superiors?

A. I don't just follow what you mean.

THE COMMISSIONER: I don't either.

MR. MacKINNON: I don't either.

MR. WILSON: Q. Let me put it this way to you: You did not from time to time agree with the policy, say, of how these various gambling establishments were to be policed by your Force, the anti-gambling squad?

A. My thought was to raid them out of business. This wasn't I know the policy decided by my superiors; I am sure of that.

Q. You were in violent disagreement with that policy?

A. No, I wasn't in violent disagreement; I felt this, that there was a way to stop the clubs from operating, and that there was reasonable and probable grounds to believe

that they were committing the offence of keeping a common gaming house, and that when those grounds were available then a warrant should be forthcoming upon making available that information, and if those warrants were forthcoming then we should raid them because if we couldn't prosecute them, at least we could stop them as I feel a policeman's duty is to prevent crime, and this was a way of doing it. We could have put them out of business. There were times when we had them on their knees, I felt.

Q. Is it fair to put it this way, that if you were the man in charge, you would have raided these places every night?

A. I would have raided them and I would have put them out of business, I felt. And if civil action was to be forthcoming, then I would have said, "All right, start the civil action and let's see just who is wrong".

Q. But you were aware that your superiors took the view that when you had all these abortive raids and you had all these complaints that you just couldn't keep on doing it every night, you couldn't keep on raiding every night?

A. We were told this, that if we couldn't find evidence, then we must be barking up the wrong tree.

Q. So that your conception of what the policy should have been and what the policy was didn't coincide?

A. I didn't agree with it but I did as I was told.

Q. But did that disagreement in policy give rise to some of your suspicions?

A. I would say in some respects, yes.

Q. Is this a report of yours dated June 3rd, 1958?

A. Yes, sir.

Q. And that is a report directed to Sergeant J.M. Anderson dated June 3rd, 1958, and signed by yourself?

A. Yes, sir.

MR. NELSON: That will be Exhibit 123?

THE COMMISSIONER: Yes. June what?

MR. WILSON: June 3rd, 1958.

---EXHIBIT NO. 123: Report of W.J. Shrubb to J.M. Anderson, dated June 3, 1958.

THE COMMISSIONER: Well, it is after 1.00 o'clock. We will adjourn now until 2.15.

---Whereupon the hearing adjourned at 1.05 p.m. until 2.15 p.m.

(Page 3230 follows)

--- On resuming at 2:47 p.m.

THE COMMISSIONER: Alright.

MR. WILSON: Well, all I need is a witness. I think he will be here in just a moment.

THE COMMISSIONER: Here he is here.

W. J. SMITH, recalled:

EXAMINED BY MR. WILSON:

Q. Have you a copy of this report of June 3rd, 1953, in front of you?

A. Yes, I have, sir.

Q. I take it from reading this report that it is based on a request made to you by Mr. W. C. Bowman, QC, Director of Public Prosecutions, to obtain certain information for him.

A. Yes, sir.

Q. Now, tell us the date of the request, and what the request was.

A. If I may read the first paragraph.

Q. Yes.

A. I believe it contains those facts as they were related to me, and as closely as they were related as I recall them at that time.

THE COMMISSIONER: Alright.

A. "Wednesday, May 21st, 1953, while "on duty at this office, I received a

"call from Mr. W. C. Bowman, Q.C.,
"Director of Public Prosecutions,
"Department of the Attorney-General,
"Province of Ontario, advising that he
"held in his possession a letter, which,
"in some manner, had been introduced in
"the proceedings which dealt with the
"appeal of John Francis GARDNER, Windsor
"Ontario, a man convicted under Section
"176(1)C.C. in connection with the Army,
"Navy and Air Force Veterans Club, Unit
"#327, Sandwich South Township. J. F.
"GARDNER had been sentenced to serve
"twelve months in gaol but, on appeal,
"the sentence had been reduced and he
"was released immediately after the
"appeal. Mr. Bowman stated the contents
"of the letter indicated J. F. GARDNER,
"upon his release from Mimico Reformatory,
"was too sick to travel and had stayed
"the night with a Mr. FEELEY, 126
"Lakeshore Road, Toronto. The letter
"went on to state that this Mr. FEELEY
"was a very reputable citizen and
"indicated he was a man of the best
"character. Mr. Bowman asked if the
"writer had any way of knowing if the
"Mr. Feeley, mentioned in his letter,
"could be the Vincent Bernard FEELEY
"known to be associated with the gambling

"syndicate operating in this Province."

MR.WILSON: Well, now, dealing with the reference which says that"

"J. F. GARDNER had been sentenced to "twelve months in gaol but, on appeal, "the sentence had been reduced and he "was released immediately after the "appeal."

Do you know whether or not that was the fact?

A. This is what I took to be the fact at the time, and if this is in error, well, then, I have no way of knowing that. I -- I don't know of the date of the appeal.

Q. Well, no, what I am interested in, do you know whether or not on appeal the sentence was in fact reduced?

A. I believe that it was on appeal. He certainly did not do the time that he was sentenced to do. It was cut much shorter of the time.

Q. No, but was it cut shorter by the Court of Appeal?

THE COMMISSIONER: Oh, well, we --

A. I don't know of this for sure.

THE COMMISSIONER: We know that it was not.

MR. WILSON: Yes. That is right.

A. This is what I understood at the time that this was prepared to be a fact.

Q. But what was the basis of fact upon which you based that information? Who gave you that information?

A. At that time I passed on what had been told to me by Mr. Bowman.

Q. By Mr. Bowman?

A. Yes, as I recall it, yes.

Q. Now, as a result of the instructions that were given to you by Mr. Bowman, what did you do?

A. I caused inquiries to be made, as I say here:

"Mr. Bowman was advised I had reason "to suspect that the address of 126 "Lakeshore Road, Toronto, might well "be the address of one of the 'front "ends' operated by the gambling "syndicate with which Mr. Feeley is "associated and I advised him I would "make inquiries and call him back."

Now, at that time, I -- I recall that there were times when we examined the club premises at Cooksville that in examing Feeley's drivers license, and what have you, there were addresses shown to be his addresses on his licenses in different areas out in the -- in the New Toronto area, and this is what the first thought that I had, that this sounded like one of those addresses:

"All addresses given by V. Feeley to

"Officers of this Branch, over the past
"few years, were checked as well as the
"addresses on all Prosecution Cards
"concerning him on file in the
"Identification Office of this Department.
"None bore the address 126 Lakeshore Road."

Q. Now, before we leave that second paragraph:

"Mr. Bowman was advised I had reason to
"suspect that the address of 126 Lakeshore
"Road, Toronto, might well be the
"address of one of the 'Front Ends'-"

A. Yes.

Q. Well, did Mr. Bowman tell you that, or is this what you suspected he had been advised?

A. I don't quite follow.

THE COMMISSIONER: No.

MR. MacKINNON: No.

THE COMMISSIONER: The Witness is saying I said to Bowman I had reason to suspect that the address at 126 Lakeshore Road may be one of the Front Ends, and it wasn't.

MR. WILSON: In other words, you were advising Bowman.

A. Well, Bowman had advised me of this, and then he said that was Mr. Feeley of 126 Lakeshore Road.

Q. As long as we get it clear. Then you advised him that you suspected that

this was one of the Front Ends.

A. Yes. That is right.

Q. Alright.

A. This was not borne out to be the fact.

Q. Do you want to go on with your report.

A. Yes:

"It was remembered by the writer that, "at one time, the driving license of "V. Feeley was made out to an address "of one of the 'Front Ends' and a call "was placed to the office in the "Department of Transport where one may "obtain particulars of persons who are "the holders of licenses and permits. "The person reported to be in charge of "this office was a Mr. Saunders. He "was not in his office at this time and "I conversed with a female person who "identified herself as Miss Lewis. I "requested her to provide for me the "particulars of any licenses or permits "registered in the name of Vincent "Bernard Feeley. She stated she would "have a check made and notify me. I "later called Miss Lewis and I was "advised that no permits were recorded "under that name. I was in no position "to dispute this finding at the time and,

"after accepting other information which
"I had requested at the same time, I
"terminated my inquiry."
"I subsequently located the license
"number of the auto owned by V. Feeley
"in the year 1957 - number 347-850."

Q. Now, just stopping there, where did you obtain that information? Was that at the Motor League?

A. No, no. I made no inquiries at the Motor League. I don't know whether that would be of some record which we had in some other way. It was quite common for us to have recorded here and there license numbers of persons that we were dealing with, the vehicles which they operated, and I don't know whether it was that, or whether I looked into the Prosecution Cards and it wouldn't be in there, because I don't believe license numbers, as I recall it, are recorded there.

THE COMMISSIONER: Well, you got it some place.

A. I did acquire the license.

MR. WILSON: Well, just go on, if you can't tell us.

A. "I called Miss Lewis and provided
"her with this number and asked her to
"re-check for my previously requested
"information. I leftthis office and,
"in due course, Miss E. Mather of this

"Branch received the information that
"1958 license number 385-326 was the
"renewal for the previously mentioned
"1957 license. I checked the
"registration of this 1958 issue and
"found it to be for a 1955 Cadillac,
"registered to Vincent Bernard Peeley,
"36 Enfield Drive, Alderwood."
"A call was placed to Miss Lewis to
"ascertain the reason for this
"registration not being available on
"my original request and I was informed
"there had been some error in the filing
"of this permit, it having been filed
"taking Bernard for the surname. Not
"being entirely satisfied with all of
"the information I had received, I
"advised Miss Lewis that I felt I should
"appear in person at their office to
"clarify any misunderstanding which
"might exist. I asked the name of
"the person in charge of her office and
"was informed it was Mr. Saunders but
"that he would be absent for at least
"one more day and that a Mrs. Gordon
"would be in charge of the office in
"his absence. I was unable to attend
"at the office on that date, Thursday,
"May 22nd, 1958."
"On the same date, I received a telephone

"call from a person whom I am not at
"liberty to name at this time, --"
And I would say that that reference there, that that was Feeley
"-- informing me, beyond doubt, that
"Vincent Feeley was aware of the
"enquiry I had made with respect to
"licences issued in his name."
"Friday, May 23rd, 1958, Mr. Saunders
"called this office to speak with me,
"to clarify the conversation I had had
"with Miss Lewis. I will say - judging
"from the tone of his voice and the
"manner in which he spoke - he was
"somewhat annoyed. In the course of
"our conversation we were able to
"straighten out my enquiry but I informed
"him that I was at a loss to know how
"Mr. Feeley knew of my inquiry. To
"this Mr. Saunders replied 'You are not
"insinuating that anyone in this office
"told the motor league of it are you?'
"I advised him I was not insinuating
"anything but merely speaking of what
"I knew to be a fact. There was not too much
"more said about this matter."
"Mr. W. C. Bowman was then advised that
"I could not establish that the Mr.
"Feeley referred to in his letter was
"one and the same Vincent El Feeley

"known to this Branch. The address of
"126 Lakeshore Road, Toronto, is listed
"in the City Directory as being
"Robinson's Gift and Novelty Store, with
"no other listing. The telephone number
"for the premises is CL 1-2871 and is
"listed likewise."

MR. WILSON:

Q. Now, going back to the first paragraph on page three:

"To this Mr. Saunders replied 'You are
"not insinuating that anyone in this
"office told the motor league of it
"are you?' ".

Now, how would any discussion of the motor league arise?

A. Well, as I recall it, the night where I -- where I was -- the same day I received the telephone call from a person who informed me of the fact that Vincent Feeley was aware of the enquiry, Feeley had called me that date, and one of his opening remarks to me was asking me why I had seen fit to go to the -- make inquiries through the motor league to establish -- to make inquiries on his licenses.

Q. Well --

THE COMMISSIONER: But you had not inquired?

A. I had not enquired through the

motor league. I never have inquired through the motor league with respect to licenses. The Department of Transport office will always provide us with this information, and that is where I would ask.

MR. WILSON: So, if anybody was at that time making inquiries at the motor league about registrations of cars in Feeley's name, it wasn't you.

A. It wasn't I, no.

Q. No.

A. My only enquiry was through the Department. He said to me - at the time he said, 'God, if you - if you want to know, just ask me.' He said 'I live with my sister.' I forget what address he said.

Q. Did he say how he came to know about the enquiry at the motor league?

A. Not that I recall. If he did, I don't recall.

Q. Now, you reported this, as you say, back to Mr. Bowman, that you were unsuccessful in showing that this address was an address of Vincent Feeley?

A. That is right.

Q. And was that the end of the matter as far as Mr. Bowman was concerned.

A. I never had any further conversation with him about it.

Q. Did Mr. Bowman tell you why he

wanted to know about that?

A. Well, as I have said here, from my understanding he indicated through the same material there someone had said that this man Feeley who lived at 125 Lakeshore Road was a reputable person, and had - Gardner had been - he had made some representation on behalf of Gardner, and that he was enquiring as to whether this was a fact or not.

Q. Now, who ---

THE COMMISSIONER: There was nothing sinister about what Mr. Bowman did?

A. No, sir.

MR. WILSON: Now, who else -- who else might have known about the enquires that you were making on behalf of Mr. Bowman, as to this address?

A. Well, I made them from my own office. I don't know. They were made by way of telephone, and I wouldn't know who would know.

Q. Would anyone else in the Branch? They were made quite openly, I take it.

A. Well, I made them in the usual manner.

Q. Well, by using a telephone in the office where other officers were?

A. In my own office.

Q. In your what?

A. In my own office.

Q. Yes. And do you recall whether any other officers were present when you made the call or calls?

A. Not in my office at the time.

Q. Well --

A. I wouldn't say that -- that someone could not have overheard me making these, but there was none in my office.

Q Well, was there any secrecy about -- within the Department or Branch about inquiries of this kind?

A. None with respect to this, where I felt I was obliging a request.

Q. Yes. Well, would it be possible that Wright may have known what you were doing?

A. It is possible that he could have.

Q. Yes, and from what Feeley told you, the motor league apparently knew something about the enquiries that were being made at that time.

A. Well, he said - the motor league, yes.

MR. WILSON: I think that is all. By agreement with Counsel, there are other matters that I want to deal with with this Witness, but I will be recalling him for that purpose. That is all, thank you.

THE COMMISSIONER: Questions?

EXAMINED BY MR. BREWIN:

Q. Constable Shrubb, all of the -- practically all the information you have given in evidence today, or a big deal of it at any rate, is shown in a report you made to Inspector Graham on the 11th of April, 1961, was it not?

A. It is quite possible that it is, sir.

Q. And at that time, you endeavoured to set out an account of various matters that had appeared in your diary, ~~xx~~ your special diary, ~~xxx~~ your extra diary, second diary if I may call it that, and any memoranda you had made at the time.

A. Yes. I submitted the brief to staff - to Chief Inspector Graham. As I pointed out, this matter had broken. I had been asked to --- that is the Wright matter had broken, and I had been asked to assist where I could by providing those things as they may relate to the ~~WRIGHT~~ -- to Wright, and knowing that, the major gambling operation was -- would be the topic here.

Q. And then you made, I take it, a second report. In fact your report to Inspector Graham was in two ---

A. Two parts.

Q. -- sections, one dated April 11th, 1961 and one dated April 13th, 1961.

A. Yes, that is right. It was a first and second part.

Q. Now, sir, I would -- my friend Mr. Wilson has been good enough to provide me with copies of these two reports. They are very convenient for matters of reference, so I would like them to be -- a copy to be produced and marked as an Exhibit.

THE COMMISSIONER: They are not entered as Exhibits?

MR. BREWIN: I don't think so.

MR. WILSON: No, they are not.

THE WITNESS: If I may further add to this, I submitted this in the form in which I was asked, for anything that I knew. I submitted it as a confidential report to him, and so all the information that -- in the investigation there may be -- there may be some fact contained in these reports which would have -- could be far removed from anything that might represent part of this investigation.

MR. BREWIN: This is --

A. But ---

THE COMMISSIONER: Let him finish.

MR. BREWIN: I am sorry.

A. But these were some observations that I had made. If there was anything developed from it, they were office information only, and if there were other matters that were

produced by further investigation, then in some small way they may play a part in his investigation.

Q. They related to -- I would suggest all of the matters that you thought affected the activities of the Branch in respect to these particular gambling activities.

A. In some way they may.

Q. Yes, and at that time they were submitted, as it says:

"Confidential Report re Robert J. Wright, "Vincent Feeley, and Joseph McDermott"?

A. Yes.

Q. They were being prosecuted at the time?

A. Yes, sir.

Q. You say they related to that, and what other matters in your experience in the Branch which you had record or recollection of that affected that subject matter?

A. Yes, that is right.

Q. And they were designed ---

A. They may have. They could.

Q. Designed, I take it, as more or less a full report of what you knew?

A. Of what I knew myself, yes.

Q. Well, then, may I ask that they be produced and marked as Exhibits.

THE COMMISSIONER: Mark them as one Exhibit, Exhibit 124A and B, the early one

being A, and the other one B.

--- EXHIBIT NO. 124A - Report of W. J. Shrubb to Inspector Graham, dated April 11th, 1961.

--- EXHIBIT NO. 124B - Report of W. J. Shrubb to Inspector Graham, dated April 13th, 1961.

(Page 3250 follows)

BB/AMD/1

MR. BREWIN: Q. Then, Chief Constable Shrubb, I would like to call your attention to some of the matters that you mentioned in 124-A as a sort of introduction. It is directed to Inspector Harold Graham of the Criminal Investigation Branch, Ontario Provincial Police, headed "Confidential Report re Robert J. Wright, Vincent B. Feeley and Joseph McDermott".

THE COMMISSIONER: Is there a copy that I might have so that I might follow it as you are reading it?

MR. BREWIN: I must say I think it would be helpful if the witness had a copy too.

Q. And the first paragraph says:

"With reference to the three "marginally-named persons, the following "report is submitted for your information, "please, and will contain all of the "facts as I can remember them, with "respect to each of the three, and this "report will cover events which took "place from the time I was transferred "to the Anti-Gambling Branch, in "Toronto, April 1st., 1954, until I "resigned from the Ontario Provincial "Police Force in December, 1958.

"I have examined my daily diaries "which were maintained during the above "years of 1954, 1955, 1956, 1957, and "1958, and I have recorded the actual

"item as it may have been entered at the
"time. The entries noted are only those
"which I feel in some way may have some
"bearing on this case. Also listed in
"the diary recordings are those daily
"entries of a second diary which I
"maintained during the year 1958. The
"reason for a second diary is because I
"wished to keep a more detailed record
"of diary notes which I did not wish
"to maintain in the diary which I
"retained at the office. It had
"become very apparent that there was
"nothing which could be considered
"strictly confidential, in the office,
"and in view of the fact that Vincent
"Feeley could call me at almost any
"time and tell me what the plans for
"the future of the branch's operation
"would be, and to tell me when I had
"submitted a report, and, in an
"indirect way, make reference to what
"the content of the report was, I
"began to doubt the wisdom of submitting
"a report. I decided to protect myself
"as best I could, and yet to make a
"note of as much as possible, which
"seemed to be of a subversive nature
"to the gambling branch and its members."
I stop there and say to you, does that

really express your reason for maintaining a second diary, for keeping certain reports to yourself, and after you had discussed them with Sergeant Anderson, and not sending them on through the usual channels?

A. I would say it does.

Q. And whether you were right or not, you had concluded at that time when you started this second diary that any report that you made in the ordinary way, as you say here, wouldn't remain confidential very long, you might hear about it from Mr. Peeley very shortly thereafter?

A. Those things had happened.

Q. And you felt, I take it from what you say, that there was some things going on in this branch that made it necessary for you to take these rather unusual precautions?

A. Well, our purpose seemed to be being defeated in some respects.

Q. Yes. Just while I am on that point, you do also set out the reason for keeping a second diary in the opening clause of that second diary, do you not? It is a special diary, 1958. I think if you will look. I don't know whether it is on the first page. I beg your pardon, in the report that you made then I have this stated:

"Due to the fact that Vincent Peeley
"was able to call me at any time and
"tell me of so many things which

"related to the operation of the branch
"and its personnel, as well as tell me
"almost immediately, when a report was
"submitted, and when there was no apparent
"help coming in this respect, it was
"decided to post items of a more
"important nature, in a second diary,
"which I retained at home."

I don't know when you wrote that. When did you write that clause I have just read to you?

A. It would have been -- this report is dated April 11, is it? It would have been --

Q. It would be at that time?

A. Yes.

Q. So again is that a fair explanation of why you kept this special diary?

A. I would say it is.

Q. If I may go back a little bit you entered on employment as far as the special gambling squad was concerned in April, 1954, did you not?

A. Yes, sir.

Q. And then without going into any very great detail about it, in May, 1954, just about a month or so later, you made a report to Staff Inspector Tomlinson, is it?

A. Yes, I did. I did say that --

Q. May 15th, '54?

A. I would say I made the report for the information of the Commissioner's office, but

it went through the office of Staff Inspector Tomlinson.

Q. And in that report, you recall it in some detail, an effort by a Leo Finnigan to bribe you, if I may put it that way, by getting property in your name, property worth twenty-five or sixty thousand dollars, is that right?

A. Well, he made a pretty lucrative offer.

Q. He made a very lucrative offer?

A. Yes, sir.

THE COMMISSIONER: What are you reading from now?

MR. BREWIN: I am reading from a report of May 15th, 1954. I don't know whether it has been marked yet. It is "Re Leo Finnigan".

MR. WILSON: Mr. Commissioner, I thought we had an understanding about these bribes.

MR. BREWIN: I told my friend I was going to ask about this, so I don't know why he had that understanding.

MR. WILSON: Mr. Commissioner, there are other bribe offers made to this witness. I thought I had an understanding with my friends that that would be dealt with at a later date, but apparently I didn't have that understanding. I would have led with that evidence but for what I thought was the understanding.

MR. BREWIN: I don't understand my friend really because I did say that this matter and one other matter I am going to mention, the

Cronin report, I intended to discuss.

MR. WILSON: There is no harm done. I intended to bring it out anyway.

THE COMMISSIONER: Go ahead, Mr. Brewin, but this report from which you are reading I would like to have in front of me.

MR. BREWIN: It is May 15, '54.

THE COMMISSIONER: That is Mr. Shrubb's report to whom?

MR. BREWIN: This is to General Headquarters.

THE COMMISSIONER: Surely it is addressed to somebody?

MR. BREWIN: It is signed by Shrubb, and,

"This report follows as a result of
"Provincial Constable W.J. Shrubb's report
"to me verbally in connection with this
"affair, and which I reported to you
"verbally pending the submission of his
"report."

Signed by W. Tomlinson", it looks like, "Staff Inspector (In Charge)", and directed to the Commissioner.

Perhaps it should be marked as an exhibit.

---EXHIBIT NO. 125: Report dated May 15, 1954, by W.J. Shrubb, re Leo Finnigan.

MR. BREWIN: Shall I read it, Mr. Commissioner, or let the witness read it?

THE COMMISSIONER: You go ahead.

Witness,

MR. BREWIN: Q. Perhaps we had better read

this report. This report was made by you?

A. Yes, it was, sir.

Q. And who did you say it was made to?

A. Well, it was made for the information of the Commissioner's office, and it was submitted through the proper channels through the officer in charge of the gambling branch at that time, who was Staff Inspector W.G. Tomlinson.

Q. Perhaps we had better read it.

Section 1:

"With reference to the marginally "noted subject, the following report is "submitted for your information please.

"Monday, May 10th., 1954, I had "returned to this office at approximately "9.00 P.M., for the purpose of compiling "a report concerning a recent raid that "had been made. At approximately 9.15 P.M. "I answered a phone call and the party "on the line was a man who asked to "speak to Constable Shrubb, I advised "him that it was Constable Shrubb speaking. "He said, this is a friend of yours, do "you know who is speaking? I replied "that I did not and he said it was "LEO FINNIGAN. (LEO FINNIGAN is the "owner of the property on Walker Road "in the Sandwich South Township, Essex "County, where the Border Cities Press "Club was in operation)."

If I may stop there; did you know Leo Finnigan personally?

A. Only through my duties.

Q. And the Border Cities Press Club there was a precursor, I think we have heard, of the Roseland Club?

A. That is right.

Q. And, as I recall it, the operators, in the evidence we have had so far, were Leo Finnigan and a man named Gardner, is that in accordance with your ---

A. Yes, the names of the clubs changed, but the operators remained the same.

Q. Those two that I have mentioned?

A. Yes, that is right.

Q. Finnigan and Gardner?

A. Yes.

Q. There is some reference to others being interested too?

A. Yes, without a doubt there were others there.

BB/2 Q. "He said he had been in Toronto "on business and as there was some "information he wished to convey to me, "he requested that I meet him some where. "He stated he was then at Spadina and "Queen Streets and wished that I suggest "a meeting place as he did not know "Toronto too well. I advised him I "was alone in this office and suggested

"for him to proceed east on Queen Street
"to Sherbourne and then north on Sherbourne
"to this office and meet me here. He said
"he was not in favour of this as a meeting
"place so I asked him to wait on the
"north west corner of Spadina and Queen
"Streets and I would contact him there.
"3. I used my own private car, a 1953
"Meteor coach, light blue body with a
"tan coloured top, license #6-W-975,
"and proceeded to this location. I
"parked a considerable distance east of
"Spadina, on the north side of Queen
"Street and proceeded on foot to the
"intersection of Queen and Spadina. I
"was standing at the curb of the north
"east corner, waiting for the traffic
"light to change in my favour, before
"proceeding to the north west corner
"of the intersection. I was approached
"from behind with an 'Hello Jack'. I
"turned and it was Finnigan. He was
"very friendly in his greeting, much more
"so than I would expect a person to be
"who I had met under the circumstances
"I had met him on, on each occasion."

What were these circumstances you had previously met him on?

A. The only times I had anything to do with him was in connection with the investigations

carried out at the then Border Cities Press Club.

Q. When you were an officer seeking to get evidence against the operations he was conducting?

A. That is right, sir.

Q. Perhaps I had better read it all.

"He advised me he had sold his interests "in The National Auto Radiator Company in "Windsor, had been in Toronto on bank "business and as he was in town, decided "he would contact me with something he "had on his mind. We went to his car "which was parked approximately one store "front east of the Horse Shoe Bar, on the "north side of Queen Street and I believe "was a 1952 Cadillac, black in colour, "with a letter 'U' in the license. We "sat in the front seat of the car and "he requested that what he was about to "tell me, be treated as confidential. "I assured him it would be. Finnigan "then related that as the result of the "unfavourable publicity which had been "given him in articles published in The "Windsor Daily Star recently, connecting "him with The Border Cities Press Club "and The Oldcastle Country Club and the "large scale gambling activities which "were alleged to take place at these "clubs, situated at the premises owned

"by him on Walker Road, he was practically
"forced to dispose of his business
"connections in that area, which he
"had did. Also as the result of the
"action taken against the club, he had
"been forced to have it closed and was
"faced with the task of making a decision
"as to what to do to have it closed and
"was faced with the task of making a
"decision as to what to do with the club
"property, of which he had a considerable
"amount of money invested into and if
"the club could not operate he would
"be forced to sell this property. He
"then said he had come to me to see if
"there was any possible way in which he
"could operate the club, or if there
"was any way in which I could help him.
"I advised him that I had made detailed
"investigations while working in that
"area, with regards to his premises
"and the clubs he was interested in,
"and I was aware of the activities that
"had taken place there. I advised him
"that I would not be one to assist him
"in any proposed operation he may be
"anticipating for the club. I advised
"him that constant checks were being
"made on the premises and if I learned
"that any type of gaming house was being

"kept, I would be the first one to raid it
"if possible and if not I would pass the
"information to someone that I was sure
"would. Finnigan then said he had a
"considerable amount of money now as the
"result of the sale of his business interests
"and he would certainly be willing to
"share some of it with me. Also due
"to the favourable layout of his premises,
"he would like to retain it and operate
"a game or two once in a while, to make
"himself some additional money. If this
"set was permitted with the assistance
"of myself, there was a chance that he
"could make a considerable amount of
"money for the both of us. I again
"advised him that he was wasting his
"time by talking to me in this manner
"and that he would gain nothing by
"making these propositions to me. He
"stated he intended to cater to wealthy
"Americans only, who could stand any large
"gambling losses that may occur and that
"competent American operators would be
"employed to ensure a good profit being
"made by himself. A 'lions' share of
"which, as he said, would be passed on
"to me. I assured him that if I wanted
"to be crooked I certainly would not
"have chosen to make my life that of a

"Policeman and that I would not jeopardize
"my character and put my family through
"the embarrassment of having it said
"that I was crooked, also that he and I
"did not speak the same language as far
"as honesty was concerned. From time
"to time the conversation would involve
"Windsor area happenings but would be
"returned eventually to his original
"purpose in arranging this meeting.
"Finnigan stated he had heard that I
"was interested in purchasing a hotel or
"a motel in the Chatham area somewhere,
"to which I denied and he said he heard
"I had some interests along those lines.
"He no doubt was referring to the business
"which my wife manages in Chatham. I
"admitted the fact that she was employed
"in this capacity however but denied
"that I was desirous of purchasing it.
"The property mentioned is valued at
"between $50,000.00 and $60,000.00 and
"Finnigan said it could be mine if I so
"desired, or any other hotel or motel
"which I may feel was a profitable
"investment. This he would purchase
"for me and have it placed in the name
"of my wife, father, uncle or the name
"of any person I wished, then I would have
"no worries whatsoever for the future.

"Finnigan then asked if I were going to be
"working in Toronto and I replied that I
"would be. He then said, well, if you
"are going to be working here you will
"need a house here and he indicated that
"he would be willing to purchase a house
"here for me and pay from $20,000.00 to
"$25,000.00 for it, if a working arrange-
"ment could be derived at."

It says "derived" at.

"His venture was to be entirely his own,
"no other person was to have any connection
"with it and no person would know of the
"connection between he and I. The
"operating expenses would be paid, after
"which the very large anticipated profits
"would only have to be shared by he and I.
"These offers were all denied many times
"during the course of time spent with
"Finnigan and he asked me if it were
"possible, that at some future time I
"may head this Branch. I advised him
"that the opportunities were here within
"the branch and if at some future time
"it was found that I was capable or
"worthy of holding such a position, it
"could happen. Finnigan then asked if
"ever I reached that position, would I
"feel I may be willing to help him in
"his proposed venture. I assured him

"that if his lucrative offers did not
"appeal to me now, on my present salary,
"I was certain that I would not consider
"entertaining his propositions if I
"reached the rank which would go with
"the command of this branch and the
"associated salary. Finnigan then said
"that the only reason he had contacted me
"in the first place was because he had
"heard it rumored around Windsor, that
"one JACK HANNON (a man known to me as
"a criminal and a first class stool-pidgeon
"who I have at times talked to when I
"was on duty in the Windsor area and
"have received information from) had made
"it known that he had collected the
"amount of either $200.00 or $300.00 a
"week or a month, I am not sure which,
"from some of the Windsor gamblers and
"racketeers, on my behalf, and it was
"alleged that I have accepted this
"money. I advised FINNIGAN that I knew
"HANNON, that I was aware of his character
"and his nature to come up with damaging
"allegations if he thought it would be to
"his advantage financially and that I
"was not worried in any way about
"anything he could say about me, because
"I was certain that he nor any other
"person could truthfully say that I had

"taken money on anyones behalf."

I should stop there. I perhaps hardly nded to ask you the question; the suggestion made by Mr. Bannon was without any foundation whatever, I assume?

A. That is correct, sir.

Q. "YIENNIOAN then remarked that he "could see where he, at this time, could "not hope to gain anything by conversing "with me further as I seemed satisfied that "I did not want to follow his proposals. "He then thanked me for my time as I left "his car and he remarked that if I ever "chose to change my mind, and thought "I could be of assistance to him, that he "would welcome hearing from me. He requested "at this time that INSPECTOR TOMLINSON "not be made aware of this meeting."

And then I don't know that I need read the rest, unless any of my friends think it is important.

I take it you did, of course, report that immediately to Inspector Tomlinson, is that right?

A. I believe I called him that night. I say,

"When I arrived back at this office I "anticipated calling Inspector Tomlinson "by telephone, to make him familiar with "what had taken place but due to the "late hour, I delayed passing this

"information to him until the first thing
"in the morning of Tuesday, May 11th.,
"1954."
At which time I relayed it to him and followed it with a report, and I believe the footnote indicates that he, in turn, immediately I had advised him, did advise the Commissioner's office.

Q. Then another similar incident occurred, which we have not heard about yet, in May of 1955, and a report was made by you on that matter dated May 5th, 1955, and submitted to your superiors in the ordinary manner, is that right?

A. Yes, sir.

MR. BROWIN: May I have the copies of that report, May 5, 1955.

MR. WILSON: I have given my friends copies of all these reports, so that it will save me some work to put them in. I thought we would put them in later.

MR. BROWIN: I am sure my friend will be glad if I take over some of his heavy burdens.

MR. WILSON: That is right.

---EXHIBIT NO. 186: Report dated May 5, 1955, by W.J. Shrubb, re John Francis Cronin.

MR. BROWIN: Q. This report is also signed by you, is it?

A. Yes, it is, sir.

Q. And it is dated May 5th, and it is headed:

"CONFIDENTIAL report Re: John Francis "CRONIN, formerly Sergeant J. F. Cronin of "The Anti-Gambling Branch, Ontario "Provincial Police."

By the way, I don't recall the evidence as to when Cronin resigned, or at least I think was transferred from the anti-gambling branch. Do you know that?

A. He was transferred at the time that I was transferred in there.

MR. WILSON: April, '54.

MR. BREWIN: April, '54.

Q. And do you know if he was still, at this time, on May 5th, 1955, employed in Government service?

A. Not to my knowledge he wasn't. He had left the Force, certainly.

Q. Then if I may read the report to you.

"With reference to the marginally- "noted subject, the following report is "submitted for your information, please.

"Tuesday, May 3rd, 1955, this writer "returned to Toronto from St. Catharines, "Ontario, having been in that City, on "duty, throughout the afternoon. On "arriving at my residence at approximately "7.00 p.m. my wife advised me she had received a telephone call just prior to

"12.00 noon, same date, and that a male
"person requested to speak with me. The
"party was advised I was at work and would
"not be home until after my tour of duty.
"The person stated he had called this
"office and requested to speak with me
"but had been advised I was not present
"in the office. He further advised my
"wife he would attempt to contact me
"by telephone in the evening of that date.
"3. At approximately 7.30 p.m. May 3rd,
"1955, I received a telephone call at
"my residence, from the marginally-
"noted person. . . ."

The marginally-noted person is John Francis Cronin?

A. That is right, sir.

Q. " . . . stating he had something
"about which he wished to see me and he
"asked if he might come to my residence.
"I advised him he could, and directed
"him accordingly. At that time he was
"in the vicinity of the Golden Mile,
"Eglinton Avenue, Scarborough Township,
"and he requested me to watch for his
"arrival and further requested me to come
"down and talk with him in his car.
"John Cronin arrived shortly after this
"time, I got into his car and he drove
"away from the close area of my residence."

May I stop there and say you knew Sergeant

Cronin, I suppose? You had been on the same force, although in different duties?

A. Yes, sir. I had worked with him.

Q. "He drove to a point near the "Scarborough Township Waterworks Department "and stopped alongside the curb. He "asked if it were all right with me for "him to stop at this location, to talk. "I advised him that I had no objection to his "stopping at any location. He then "suggested that some members of the "Toronto City Police Department were "residents of this area and stated he had "better park in another location. I "advised him to park in a lane beside the "Water Works Department and it would be "all right with me. This he did.

"4. John Cronin's opening remarks to "me were concerning the fact that he "had a share in the 'Club - "out there"' - "referring to the Cooksville Branch of "the Army, Navy and Air Force Veterans "Club, Unit #326."

That was the same club as later incorporated, I think, or chartered under the -- what was the latest name of it?

A. I believe it was the Middle Road Vets Club. I could be wrong,but I believe that is what it was.

Q. And that was the club, I take it,

operated by McDermott and Feeley?

A. Yes, sir.

Q. And,

"He stated they were going to open up two
"more Clubs in the near future - one at
"Port Erie, Ontario, and one at Windsor,
"Ontario. He stated that things in
"Niagara Falls and Buffalo, New York,
"had been a little rough on the gambling
"element and that the premises formerly
"known as The Lorelei Club, now known
"as The Ramsay Club, would be opening in
"the very near future."

May I stop there and ask you, is that correct, did it open in the very near future?

A. It did, sir.

Q. It did.

"He stated the premises in Windsor which
"would be opened up would, no doubt, be
"the premises owned by Leo DUMOUCHAN and
"was formerly known as The Oldcastle
"Country Club, The Border Cities Press
"Club and lastly as Branch #327 of The
"Army, Navy and Air Force Veterans Club.
"He stated he felt I could help them
"successfully operate the three Clubs and
"there would be a considerable amount of
"money in it for me. He stated he did
"not know how I would take the suggestion
"on his part but felt, after consideration,

"that he would make such a proposal." Did he say who was operating it? Apparently he said he had a part in it. Perhaps I had better read the full report and then I can ask you about it.

"I advised him that, under no circumstances, "would I consider his suggestion; that I "was satisfied with my present type of "employment and would not sacrifice my "own character nor the pride of my "family, to resort to any such association. "He further stated he had reason to "believe my name was 'being used' in the "Peterborough area, by a person whom he "could not name, but felt I knew to whom "he was referring as being a person who "would condone an offer such as he had "suggested.

"4. I advised him I was not certain what "he was referring to when he mentioned "the connection I may have with persons "in Peterborough and asked if the person to "whom he was referring was a member of "this Force. He said the person was, "and that he was a man who knew Trimble "(Staff Inspector Trimble) very well. "He then mentioned the name of Norton "(Ronald Norton, a Peterborough gambler) "and stated I should have nothing to do "with him as he was of no account. I

"advised him I had only met R. Horton on
"one occasion and that had been when I
"had raided his house as a suspected
"Betting House and, as far as any other
"persons in Peterborough with whom I
"might have any association, they were
"very limited in number, being only the
"persons with whom I had recently worked
"in connection with several punch board
"prosecutions carried out in that area,
"and further, that I had no reason to
"fear from them. He said I had nothing
"to fear but the person concerned was
"inclined to drink heavily and when he
"did so he was very mouthy. John Cronin
"seemed to be of the opinion that I
"would be interested in owning a Motel
"and, from time to time during the period
"we were together, he mentioned different
"Motel transactions of which he was aware
"and stated he was sure, if I followed
"his suggestions, I could have a sizeable
"sum of money to pay toward a twelve or
"fifteen unit Motel - within a year's
"time. I again advised John Cronin I
"was not desirous of gaining any property
"or money from a means such as he suggested
"and that I would in no way associate
"myself with his suggestions. He stated
"he did not want to have any hard feelings

"exist between us and was glad to see
"that I thought of my position as I did.
"He then stated he would be only too
"glad to hear from me at any time in
"the future if, for any reason, I might
"change my mind. A general conversation
"was carried on for a period of the time
"I was with John Cronin, relating to
"police matters which had been investigated
"during the time he had been with this
"Branch. He also mentioned some matters
"which involved the gambling organization
"controlled by Joseph McDermott and Vincent
"Feeley. He spoke of an undercover
"investigation which was attempted by
"Provincial Constable Sweeney of this
"Branch, during the Summer of 1954, with
"respect to the Malton Cigar Store,
"Malton, Ontario, a bookmaking front-end
"operated by one, Sean McKenna, and
"controlled by McDermott and Feeley. He
"also spoke of a recent case investigated
"by The New Toronto Police Department
"which involved a gaming house charge laid
"at the premises known as 135 -5th Street,
"New Toronto. This is also a book-
"making front-end controlled by McDermott
"and Feeley. John Cronin stated the
"gambling principals indicated they
"would not contest the charges in Court

"but would plead 'Guilty' to them as
"Chief Weatherup was rather bull headed
"and, if he did not get the premises
"once in a while, he would be spiteful
"and bother them too much.
"5. I was in the company of John Cronin
"for approximately one hour and a half
"and was back to my residence at
"approximately 9.00 p.m., following
"which I immediately contacted Staff
"Inspector W.G. Tomlinson, by telephone,
"and made him aware of the suggestions
"of John Cronin."

Well then, that report fully sets out what occurred on that occasion?

A. Yes, sir.

Q. And perhaps I should ask you this, he referred in this report, without giving the name, to some one who would condone such an offer. Do you know who he was referring to?

A. He didn't name the person.

Q. From what he said did you form any conclusion as to who he was talking about? --

THE COMMISSIONER: Q. Well, whatdid he say, other than what you have got down here?

A. He didn't name any person, my lord.

MR. WILSON: Mr. Commissioner, just for the record, Cronin was transferred out of the anti-gambling branch on April 1st, 1954, and resigned on July 17, 1954.

MR. MacKINNON: And then he was in the motel business, I believe.

MR. WILSON: I understand we will learn more about that later.

MR. BREWIN: Q. Do you know anything about that? --

THE COMMISSIONER: What date did he resign?

MR. WILSON: He resigned on July 17, 1954.

MR. BREWIN: Q. And do you know if he resigned to go into the motel business?

A. I know he resigned, and I know he is in the motel business.

Q. I see. Do you know who his partners in that business are?

A. I am afraid I don't, sir.

Q. Then it was very shortly after that, was it not, that the attempt - at least I think you felt it was an attempt by Inspector Stringer to get you to transfer to Peterborough, or rather to Cobourg, I should say?

A. Into his district.

Q. Into his district in any event, and you have already told us about that in some detail, have you not?

A. Yes, sir.

Q. And I don't wish to go over the matter with you, but you did say in evidence that -- perhaps you can give some explanation of this matter in this connection, that when you spoke to Anderson after you had interviewed

Inspector Stringer and he had invited you to Peterborough, you did say, "It was not what I expected"?

A. That is right.

Q. You had told Inspector -- Sergeant Anderson that you were going to meet Inspector Stringer?

A. Yes, sir.

Q. At his invitation?

A. Yes, sir.

Q. And apparently when you did meet him he discussed this transfer to his division?

A. That is right, sir.

Q. And when you said that it was not what you expected, was that linked up with the previous conversation you had had with former Sergeant Cronin?

A. Well, I thought that his reason for approaching me, in my opinion, was for some interference of some form.

Q. So what you meant then, I take it, that when you spoke to Sergeant Anderson it was not expected that you didn't get the approach or the interference that you had anticipated?

A. That is right.

Q. You think this might be another design to deflect you from your duty, another attempt to bribe you, in other words?

(Page 3275 follows)

A. Well, I didn't know just what to expect, actually.

Q. At any rate, you did tell us that you came to the conclusion, as a result of all the matters you have discussed, that Inspector Stringer was, while not attempting to bribe you in any way, was trying to give you an attractive offer to leave the Anti-Gambling Squad?

A. That was the opinion I formed.

Q. And that was his purpose, you gathered, did you?

A. That is what I believe.

Q. That would achieve somewhat of the same effect, at any rate, get you out of the way of any of the gamblers because in Cobourg you wouldn't be connected with very much, would you?

A. No, sir.

Q. I take it it was a little later than that you learned that the similar effort had been made to get Inspector Hatch?

A. Yes, sir.

Q. To go on Inspector Stringer's staff in the division at Peterborough?

A. Yes, sir.

Q. And that would involve his leaving the Windsor Branch where he was in charge of anti-gambling activities there?

A. He wasn't in charge of anti-gambling activities, but he was in the county,

he was in charge of the County of Essex, and he accepted the responsibility of dealing with the Windsor Club, with what assistance we could give them.

Q. Then that brings us to the efforts of 1955 to get you off -- to get to you. And then I think about the next episodes I want to discuss with you took place in 1956, when you had a series of direct telephone conversations with Mr. Feeley. I am just repeating what we have already had evidence about, is that correct?

A. I am not sure of the dates I had calls from him. If you could indicate them to me.

Q. I think that they started sometime in June, but I may come directly to your report which is a September report, if I can lay my hands on it, September 16th, 1956?

A. If I may suggest, September 18th.

Q. It is Exhibit IXX 112. It is the report of September 18th, 1956.

Could you give the Witness Exhibit 112.

A. I have a copy, sir.

Q. You have a copy. I want to go over this report with you. It refers - this is the report which you gave the facts, you gave the facts fully to Sergeant Anderson.

A. I gave him a copy of the report, sir.

Q. A copy of the report which you made on the dateindicated here, about September 13th?

A. Yes, sir.

Q. And in paragraph three of this report, which is Exhibit 112, you referred to the telephone conversations with Lloyd.

A. Yes, sir.

Q. And those conversations were an indirect attempt by either Feeley or McDermott again to interest you in some bribe or proposition they were making?

A. I can only say "Feeley".

Q. Feeley?

A. Yes.

Q. Not MacDermott?

A. No, not that I know of.

Q. Not as far as you know?

A. No, sir.

Q. And then on September 18th, paragraph four, you received a telephone call from Vincent Feeley, is that right?

A. On September 18th?

Q. I am sorry, August 18th - if I said September - paragraph four of your report.

A. Yes, sir.

Q. And at that time Feeley apparently suggested that he would discuss some matter with you himself.

A. Yes, sir.

Q. Rather than through an intermediary?

A. That is right.

Q. And you told him you didn't want to discuss anything?

A. That is right.

Q. And then paragraph five of August 29th, you got another telephone call from him in which he talked about personal business that he would want to discuss some legitimate personal business with you, is that right?

A. That is right, sir.

Q. And then on August 30th, he postponed a meeting with you to another time, and the same, I think, is the effect of paragraph seven. I may be wrong. On August 31st you did actually meetin him, did you not?

A. Yes, I did.

Q. And at that time he discussed the business venture he had in mind that you would manage, is that right?

A. That is right.

Q. And was going to be very, a very profitable undertaking, so he said?

A. Well ---

Q. And it was to be a service station on Highway 400? Is that right?

A. That's right.

Q. And I take it that Highway 400 is the Highway from Toronto to Barrie?

A. Yes, sir.

Q. On which there are only a very limited number of service stations, so it would be a rather useful location?

A. There were two at that time.

Q. I beg your pardon.

A. I believe there were perhaps only two at that time, one going up and one coming down, if my memory serves me.

Q. And it would be, I suggest, a rather choice location then to have a service station on Highway 400?

A. For a person who understood the service station business I would feel it would have.

Q. But you were not interested yourself?

A. No, sir.

Q. But he said he had been reliably informed that four new service stations would be erected, and that with his political friends, he was assured of one of these locations through the Minister of Highways as soon as the Minister came out of the hospital, and you told him you were not interested in that, is that right?

A. That is right.

Q. Well then, if we may go on for a moment. He then discussed a number of other aspects of the Department, and particularly the Anti-Gambling Branch?

A. Yes, sir.

Q. The subject you have listed there under (a):

"The clubs. They are running all right "at present and are making money. The "instructions passed to us is to leave "them alone, no harm is being done. They "are aware of these instructions. The "Port Erie Club is changing location "and he was in Port Erie the day previous "and not at Huntsville, as he had "previously stated. He or MacDermott "must vouch for any person, before they "are admitted to the Cooksville Club."

That is what Mr. Feeley told you?

A. That is right, sir.

Q. Do you know what he referred to when he referred to the instructions to leave them alone? Perhaps I could assist you by calling attention to the evidence of Sergeant Anderson at pages 101 of the transcript and 102. He says his diary entry for that date apparently indicated that in 1956, May 25th, 1956, which was a few days before this, or a month or two rather before this, that he was advised at that time to execute warrants only on complaint, and he says at page 102 that he got those instructions from the Attorney-General.

Were you aware of the instructions that

came from the Attorney-General on May 25th, 1956, to Sergeant Anderson that you were only to execute warrants on complaint?

A. I was aware of the instructions, I wasn't --- I don't recall that I was advised as to who the instructions came from.

Q. And it is apparent, therefore, that on the date of this interview with you, which was August 31st, 1956, that Feeley was also aware of the instructions?

A. Without a doubt he was.

Q. Yes. And he said that the clubs were running all right, and making money, is that right?

A. Yes, that's right.

Q. Well then, he goes on to deal with Cronin. You had already had some contact with Cronin about this matter, and he refers in paragraph (b) to Cronin taking the money from every gambler throughout the Province until he got enough money saved up, and then he became careless.

"He had been taken aside a couple of "times and cautioned about his playing "the field and to play only with them "and he would be better off in the long "run."

Was that caution about dealing with people other than Feeley?

A. About playing the field?

Q. What does "plying the field" mean?

A. Well, he was associating himself with too many other persons interested in the gambling field.

Q. He would have been better to stick to taking his money from Feeley, from limited sources?

A. He should have one master.

Q. Yes.

"The observations ..."

I think that should be

"told"

A. It should be "held", sir, if I may say.

Q. "... held by 'Feeley' and myself

"at the Windsor --"

"...by Cronin and myself at the Windsor

"Club. Feeley was also aware of THE

"CONFIDENTIAL REPORT TO THE COMMISSIONER

"which had been submitted by myself with

"respect to Cronin."

Did Feeley tell you that he knew of this report?

A. In an indirect way I was satisfied that he knew of it.

Q. And that report was the report that has just been marked a little while ago as an Exhibit, which is an account of Cronin's efforts to induce you to take money to assist these gamblers in their activities?

B/4/D

A. That's right, sir.

Q. And you had made that report to Tomlinson, and from Tomlinson it would go to the Commissioner, is that right?

A. That would be the channel it should go through, sir.

Q. And somehow or other you say Feeley appeared to have become aware of this report?

A. Yes, sir.

Q. And then I notice that you underline the words:

"The Confidential Report to the Commissioner". Did you underline those to indicate, in your opinion, the lack of security for reports that you made in the normal course of events? Is that your purpose in underlinging that?

A. My copy that I have is not underlined.

Q. This is the copy that you capitalized? --

MR. WILSON: Maybe I underlined it.

MR. BREWIN: My friend may have done that for us.

Q. In your copy it is --

A. Is capitalized, yes.

Q. I am sorry, I should not have said "underlined". The words

"The Confidential Report to the Commissioner" are capitalized. Do you know why you capitalized

them? --

THE COMMISSIONER: To draw attention to them.

THE WITNESS: To draw attention to that fact, certainly.

MR. BREWIN:

Q. Then you go on to deal -- I leave out (c) which deals with

"The Peterborough Case",

and under (d) you refer to discussions about Inspector Stringer, and it says here:

"Feeley knew of the meeting with Inspector "A. Stringer, #8 D.H.Q. , and this writer "and off the matter discussed by the "Inspector and myself with respect to "immediate promotion to Sergeant and "a transfer to Cobourg detachment. Feeley "spoke of the transfer to 'Cobourg'. This "meeting was arranged by Inspector Stringer, "when he called me at my residence, he said "he would like to have me in his district, "to look after the detachments along the "southern part of his district. That the "Commissioner had always granted him pretty "well everything he had requested and he "thought he would grant this move and "promotion. The notation of this meeting "is noted in my diary of 1955, page dated "June 7th., and has a crossed circle, in "which is entered the letters C B I S.,

matters. Then, paragraph nine.

"I told Feeley I could not see why he "would select me as a person to run his "service station as I had no experience "in this field and he must know other "persons who would be more suited. I "asked if it were not a deliberate move "to get me out of the Branch."

Was that the opinion you formed, that they were trying to get you out to a business that would get you out of the Branch?

A. It is.

Q. And that is what you told him, is that right.

A. Yes, sir.

Q. And his reply was,

"He said there was no reason for that as "they knew of the present orders as no "harm was being done and we were not to "raid when there were no complaints."

That again refers back to the instructions that Sergeant Anderson told you had been given at that stage by the Attorney-General?

A. I would say it did.

Q. And Feeley was obviously aware of them?

A. Yes, sir.

Q. And then I propose to read the next sentence.

At the time my friend read this, I don't

know whether it was on your instruction or on his own initiative, left out the name that is mentioned on the first line of page four. I propose, subject to your direction, to ask the witness whether that name was given, the name that is printed here, was given to him by Feeley.

THE COMMISSIONER: Go ahead.

MR. WILSON: I am sure I read it.

MR. BREWIN: No, you left the name out.

I am not suggesting my friend left it out for any reason that he shouldn't, but I think he just did leave it out.

"I asked who his member was ...."

Q. Now that, I take it, that question related back to a previous statement in paragraph eight of your report on page two, that his member could arrange for one of these locations through the Minister of Highways?

A. That is right.

Q. And you asked him who the member was that was going to arrange this location, is that right?

A. That is right.

Q. And it says here, that,

"...he said James Maloney, Renfrew South."

Is that correct?

A. That is what he said.

Q. And was he -- perhaps you don't know.

We will have it somewhere else. He was Minister of Mines at that time.

A. I don't know that.

Q. No, apparently not at that time. It says here:

"Renfrew South".

I guess he was the member for that constituency.

A. That is what I concluded.

Q. "From here on he referred to his "member as 'Jim'. He said Maloney would "be the next Attorney-General and that "Inspector A. Stringer would be the next "Commissioner, also/at the Commissioner "would only be around for another year "or so."

And then you say,

"This meeting lasted for approximately "three and a half hours ..."

And then you told him, of course, that you were not interested in the service station, and he apparently said he would call you again and give you further information about the service station.

A. That is right, sir.

Q. In November of 1956, Exhibit 105 is a letter of November 23rd, 1956, from Sergeant Anderson, a memorandum to Mr. McNeill, Commissioner of Police and it is re a confidential report submitted by yourself. And then paragraph two, it says,

"May I respectfully suggest, sir, that "you give Corporal W. J. Shrubb an "audience with respect to these matters "and also to one other matter which it "is felt should not be in writing at "this time but should be verbally "communicated to you personally. I "might add that I have knowledge of "what this is about."

And then attached to that is the confidential report, Exhibit 105(b) that has already been discussed with you by Mr. Wilson, is that right?

A. Yes, sir.

Q. And I might ask you if you - perhaps it is hard at this stage - if you recall what was the matter, what did you verbally communicate to the Commissioner at that time?

A. Well, as I have said before, I feel in essence without the presence of the report that the entire content of the report of September the 18th was related to him. Also I have made reference to the fact that I feel that this was perhaps the time when the matters respecting Inspector Stringer were mentioned to the Commissioner, and the part about Staff Inspector Trimble, and it was then that Mr. Phelp made the comment that he felt that Stringer and Trimble had been fairly friendly up until this point, and following this they were not on such good terms, and I was led

to believe at that time, I believe, that the report had been shown to Staff Inspector Trimble.

Q. And do you know what action, if any, followed as a result of giving that information to the Commissioner?

A. I heard nothing further than that. With respect to the Cronin and Finnegan matters I left it that if by any chance this matter should be set up in any way, I had not severed my connection with him entirely and that I would go along with anything that was thought to be a means of deterring this sort of approach to a police officer.

Q. Well then, I think the next item was in February, 1957. I don't know whether you have your diary entry for that date in front of you. I think you have already told us about a call in February, '57, from Feeley in which again a suggestion was made to you that if you assist then you would be very liberally regarded. Am I right in that?

(Page 3295 follows)

A. I don't know the date, but maybe you are referring to the time when he suggested an envelope could be left in my mailbox quite freely.

Q. Yes, that is the date.

A. Without detection, and that envelope could well contain a thousand dollars a month.

Q. Yes. Then we go on to the pressure that was put on you in March of 1957. Did you have a further contact with Feeley?

A. I am afraid you will have to be more specific, sir.

Q. I will try to find it in my notes. March, 1957.

THE COMMISSIONER: We will have a ten minute recess now.

--- A short recess.

--- Upon resuming.

MR. BREWIN:

Q. Chief Constable Shrubb, I was going through some of the instances in which various individuals had tried to put pressure on you, apparently on behalf of the gamblers, and I mentioned the incident of February 2nd, 1957, which is on page 11 of Exhibit 124A,. I would like to refer you to that. That is your report of April 1st, 1961, page 11 of that.

THE COMMISSIONER: What Exhibit?

MR. BREWIN: Exhibit 124.A, sir. In the middle of the page under Item 26 there is the item of February 2nd.

THE COMMISSIONER: What page?

MR. BREWIN: Page 11, sir, where it is also stamped "180".

THE COMMISSIONER: Yes.

MR. BREWIN:

Q. Item 26, February 2nd, 1957, and I merely remind you -- I think you have told us about that already that Feeley suggested to you that they could drop money in your mailbox at your apartment once a month for payment of any services you should render?

A. Yes sir.

Q. So they were still trying to corrupt you at this stage?

A. Yes, sir.

Q. Then if we could go on to the next page, March 27th, 1957, Item No. 29 there. On that occasion, apparently, Feeley called you again.

"During the conversation he stated he
"had heard I had received some fruit,
"this even though it is suggested in
"my memo of February 22nd, 1957, that
"the content of the memo be for the
"information of Sergeant Anderson and
"the Commissioner only. He also said

"that he heard some good reports had been
"submitted by myself and although the
"exact words used I cannot remember,
"the conversation was blunt enough that
"I could only conclude he was referring
"to my memorandums."

So that I take it, again on March 27th, 1957, Feeley's conversation indicated to you that he had knowledge of the confidential report that you had made; is that right?

A. Yes, sir.

Q. Yes. And then starting on the next page, thirteen, and starting at Item No. 37, you described in the number of following pages there, what you have already told us about, and that was a series of telephone conversations with Feeley in which he gave you information to raid the old Ramsey Club or put it out of business, if I may put it that way.

A. That is right.

Q. I am not going to discuss that in detail with you, except to call your attention to your entry --- that is a little later. No. Perhaps I had better call your attention to that now. This would be in Exhibit 124.B. August 26th, 1958, Item No. 49. Have you got that? Page four, 124.B, the Item of August 26th, Item No. 49. Have you got that?

A. Yes.

Q. Yes. And here it is said you were

shown a prepared item which he had received from District Inspector Stringer, and this item outlined in detail the things he could do to prove his case against the keepers of the club.

"I am sure that my remark to Sergeant "Anderson, after I had read this item "were, 'This is not the first time I "have heard all this, it is almost "verbatim with the conversation of "Feeley, when he called me by phone "on a previous occasion'."

That was so? The information he gave you and the contents of the brief were, in some points, almost verbatim, the same?

A. Yes, they were.

Q. Now, I don't wish to discuss with you in detail the call you had from Mr. Bowman, that he asked you about the -- to make enquiries about the license of Mr. Feeley. You have already told Mr. Wilson about that.

A. Yes sir.

Q. But I take it, from your memo, that what perhaps surprised you about that, was that you talked to Feeley the next day and Feeley knew about that request.

A. It was either that night or the next day.

Q. Yes. Well then, I might call your attention to page 16 of your report. That is,

124.A. I am sorry, I am back to that one. You will see that at about the last line on page 16, about six lines from the bottom:

"Peeley started this conversation in what "seemed to be a peeved tone of voice and "made reference to the contents of the "fact outlined in the memo respecting "Bowman's request, memo of June 3rd. "He said that he was levelling with me "and -- I wanted to know about him, he "was living with his sister."

MR. WILSON:

"And if I wanted to know."

THE COMMISSIONER: What page is it?

MR. BREWIN: Page 16, 124.A., at the end of the page.

THE COMMISSIONER: Yes, thank you. That is 39.

MR. BREWIN : Item 39, under date of May 22nd.

THE COMMISSIONER: Yes, thank you, I have it.

MR. BREWIN:

Q. I was reading to you what Peeley stated.

"Peeley started this conversation in what "seemed to be a peeved tone of voice and "made reference to the content of the "fact outlined in the memo respecting "Bowman's request, memo of June 3rd.

"He said he was levelling with me and "if I wanted to know about him, he was "living with his sister. He made "enquiries alleged to be made of the "motor league. He knew of my enquiries "about his license as per Mr. Bowman's "enquiry."

Did you ask him, or do you know how he knew about those enquiries?

A. I don't know, he just out and told me he knew of the enquiries I had been making with respect to his licenses.

Q. I know it was very shortly after that you started your special or your second diary. Is that connected with this at all?

A. Well, there was a series of things. I would say this same name came up.

Q. Whether you were right in your conclusion or not, you felt the information you reported or even information of the enquiries you had from the Attorney-General's Department were being referred to by Feeley as though he knew about them. Is that right?

A. That is right, sir.

Q. Well then, I just have one or two more questions that I want to ask you. Sergeant Anderson has told us of certain discussions that came to his attention in the Anti-Gambling Squad as a result of the issuing of three charters to clubs that had been known as gambling clubs,

through the intervention of the Attorney-General. Did you know about that?

A. Yes I did, sir.

Q. And did you find it discouraging that the three clubs that you had been trying to -- if I may say -- put out of business, were now being chartered by the instructions of the Attorney-General?

A. Yes, it was just as discouraging to me as I believe it would have been to Sergeant Anderson.

Q. This wasn't in conformance with other charters?

A. They were issued in a different manner than what other charters were and it seemed irregular to us.

Q. To put it bluntly, did you feel your efforts to put this illegal gambling business away, to stop it, were being frustrated by actions taken on a higher level and specifically by the Attorney-General?

A. Yes, or as well as other means.

Q. And by other means?

A. Yes sir.

Q. And I want to refer you to one or two items. I want to refer to the closing of your report made to Inspector Graham on April the15th, I think it was. The second report, which is 12⁴.B, at page 7.

(Page 3305 follows)

MR BREWIN: (cont'g) Q. It is about halfway down. You have already told us that you put into this report all that you could recall relating to these matters and you now conclude in this way:

"In closing this report, I know
"that the circumstances as mentioned
"will in a lot of cases leave a lot
"to be desired, such that they
"could not help but lead a person
"who was sincere in his work as a
"member of the Anti-Gambling Branch
"to become very concerned and
"disturbed at their happenings."

I take it you were very concerned and disturbed at what was happening in this branch?

A. I would say I was in some respects, sir.

Q. And I take it that you were at all times, and still are, you were at this time, sincere in your work, which was to meet and deal with these criminal activities?

A. I feel that I was, sir.

Q. (reading)

"I for one, assisted by the
"very capable officers of the
"Branch who are still there,
"always had the desire to get
"to the root of anything which
"would tend to cut the throat of

"officers engaged in the enforcement
"of the laws respecting gambling,
"and which in any way indicated
"that corruption was taking place.
"My experiences in dealing with
"these matters certainly caused
"me to doubt the sincerity of a
"lot of happenings. Accordingly
"they have been noted. Now that
"this very undesirable situation has
"been brought to light, I only
"hope that all persons who are guilty
"of betraying the responsible
"positions they hold or have
"held, will be dealt with by
"law, and the festering sore which
"has apprently been open for some
"time will be healed. This in the
"interest of 'Devoted Policemen'.
"Also, it is an understood fact
"that for organized gambling to
"exist, three factors are an
"essential. You must have the
"betrayal of the working policeman,
"some police administrators and
"the assistance of elected or
"appointed government officials.
"When one is aware of the time that
"certain clubs in Ontario have
"operated as gaming houses, then

"Organized Gambling must have "existed."

That was your conclusion from your experience in this Branch, was it?

A. Yes, it was. I submitted this as a confidential report but it has got beyond that. And this was my feeling expressed to Inspector Graham.

Q. And the "certain clubs" that you refer to here were the three that we have been discussing chiefly, the club in Windsor, the club in Cookaville, and the clubs in the Peninsula?

A. That is the three.

Q. And you came to the conclusion, as I understand it, that they have achieved their operations as a result, and that was a festering sore, and you were hoping as a result of the prosecution in respect to which you were reporting that the matter might be cleaned up?

A. I hoped it would, although my interest was not personally there at that time; that was mythought.

Q. I take it that all you have done and all you have said has been in a sincere effort to assist in cleaning up these matters; is that right?

A. I would like to think that it was.

THE COMMISSIONER: Any questions, Mr MacKinnon?

MR MACKINNON: Yes, sir.

EXAMINED BY MR MACKINNON:

Q. I shall attempt, Chief, to deal with these matters chronologically as best I can. The first matter that I wish to go into with you is this offer to you of employment in his district by Inspector Stringer. Now, Inspector Stringer has stated under oath that the first advance made with regard to employment in his district was not made by him to you but rather was made by you to him, and he advised us that it took place in Peterborough when you attended there with one or two other officers and you said to him," Have you got a place for another sergeant or a sergeant in your divison? I would like to come here."

Now, I would like to have from you, Chief Constable, your answer to that statement. Did you at any time first approach Inspector Stringer about a position in his division?

A. His statement is an absolute falsehood.

Q. That is clear enough. Then we will move on to 1956, and this report which is now in as Exhibit 112, your report of September

18th, 1956. This has already been gone over by Mr Wilson and Mr Brewin but just in connection with one matter, and that is item No. 11, which is on page 4 of the report of that date, you refer to the fact that Feeley advised you that Magistrate F. Bartrem was going to hear the Tisdale Club case on October 10th.

THE COMMISSIONER: Excuse me; what report are you referring to?

MR MACKINNON: Exhibit 112, which is the report of September 18th, 1956, sir.

THE COMMISSIONER: And it is item what?

MR MACKINNON: Item No. 11.

Q. First of all, Feeley's information that the hearing was to be before Magistrate F. Bartrem on October 10th was correct, wasn't it?

A. Magistrate Bartrem did have some part in the second proceedings of this prosecution.

Q. Well, in any event, Magistrate Bartrem, we have heard, did appear on October 10th to sit as the magistrate on this case; is that correct?

A. If I may just have one moment, sir? (Pause) I am referring to a copy of my sixth report in the proceedings against the Tisdale Club at Peterborough, and the date of the copy which I refer to is for the date of November

12th, 1956, and in para. 3 I read:

"Wednesday, October 10th, 1956, the
"four accused persons as listed in
"the above paragraph appeared in
"Magistrate's Court for the City
"of Peterborough before Magistrate
"F. Bartrem to answer to the charge
"under Section 176(1) of the Criminal
"Code."

Q. Fine. Well then, in other words, they did appear on October 10th before Magistrate Bartrem as Feeley had advised you would happen on September 12th, 1956?

A. Yes, that's right.

THE COMMISSIONER: Q. Well, had the case been remanded to October 10th?

A. If I may just look here for a moment, sir? (Pause)

Q. He wouldn't remand it for more than eight days at a time anyway.

MR MACKINNON: It certainly hadn't been remanded by Magistrate Bartrem, in any event, my lord.

A. My same report or copy of the report dated November 12th says in paragraph 2:

"July 18th, 1956, Ronald Horton,
"Neil Herrington, Kenneth Fleetwood
"and Richard O'Brien appeared in
"Magistrate's Court at Peterborough

"Ontario to answer to the re-laid
"charges under Section 176(1) C.C.
"This case was not proceeded with
"before Magistrate W.R. Philp and
"it was further adjourned until
"October 10th, 1956".

THE COMMISSIONER: Q. On what date was that?

A. This appearance was on July 10th, 1956.

Q. And they were remanded to October 10th?

A. October 10th, 1956. Then the proceedings on October 10th were, sir, as I read them previously.

MR MACKINNON: Q. The question I wished to ask, Chief ---

THE COMMISSIONER: Just a moment. On what date do you say they were remanded?

A. On July 10th, 1956.

THE COMMISSIONER: That cannot be accurate, Mr MacKinnon.

MR MACKINNON: It probably isn't, Mr Commissioner. It is probably a fact that from time to time they were remanded.

THE COMMISSIONER: Mr Rose seems to think he has some knowledge of this.

MR ROSE: I certainly think that this was a ---

THE COMMISSIONER: Never mind telling

me. Tell Mr MacKinnon.

MR MACKINNON: Mr Rose points out that if they were on bail they could be remanded on consent. This was after, you will remember, there had been an appeal which was successful and the charges were then re-laid.

THE COMMISSIONER: Yes.

MR MACKINNON: Apparently it must have been agreed that they would not be re-heard by the same Magistrate who had heard the earlier charges.

THE COMMISSIONER: Well, this wasn't a remand from July 18th. That is the point I am making.

MR MACKINNON: Well, it could have been, on consent.

THE COMMISSIONER: What was the date of the decision of the Court of Appeal; do you know?

A. I go back to a report of July 4th;"Tuesday, June 19th, 1956, an appeal was heard in this case and in the Supreme Court of Ontario before The Hon. The Chief Justice of Ontario, Mr Justice J.W. Pickup, The Hon. Mr. Justice Aylesworth and The Hon. Mr. Justice Schroader,having heard the Crown evidence and argument for the defence the Court declared the trial a nullity and ordered the conviction quashed. The four convicted persons in this case had been chagged separately on one informatinn."

Well, that is incidental. Then in paragraph 4:

"Tuesday, July 3, 1956, a letter was "received at this office from Mr J.A. "Bradshaw, Crown Attorney for the "County of Peterborough, advising he "had been instructed by the office "of the Attorney-General to have "the charges re-laid against Horton, "Herrington, Fleetwood and O'Brien "charging them jointly under Section "176(1) C.C. The charges have been "re-laid and the four accused "persons are to appear in Magistrate's "Court of the City of Peterborough, "Wednesday, July 18, 1956. There "is every reason to believe that "no trial will be held at that "date because officers of this "branch cannot be available for "trial at that time and a further "remand will be sought."

Q. Very well. The charge was relaid and it came up apparently for the first time on July 18th and apparently on consent was put over until October 10th?

A. That appears to be so, my lord.

MR MACKINNON: Q. What I wanted to ask was this, Chief; on September 12th, 1956, when

Feeley called you and advised you that Magistrate F. Bartram was going to sit on October 10th, was that news to you?

A. I don't know whether I had beforehand knowledge that Magistrate Bartram was going to sit then or not.

Q. Did Feeley advise you from whence he got this information?

A. No. He just spoke of it generally as his knowledge.

THE COMMISSIONER: Who was the magistrate on the original conviction.

MR MACKINNON: Philp, I believe.

A. Magistrate W.R. Philp, my lord.

THE COMMISSIONER: Q. Then they would, as it were, have to import a magistrate to try this case?

A. For the second trial, yes, my lord.

Q. Well, it wouldn't be unusual for that to come to the knowledge perhaps of counsel and even your Department; it was agreed that it would go over to October 10th, which was a long way ahead.

A. Yes, sir. We were in the holiday period at that time and we were not going to have officers available for any earlier sittings in this matter.

MR MACKINNON: Q. Now, in that connection,

and I don't wish you to go into this report in detail, but you did make a report on November 29th, 1956?

A. With respect to the Tisdale Club?

Q. That's right.

A. Yes, I did, sir.

Q. We have heard Magistrate Bartrem's evidence where it was indicated, I believe, that counsel for the accused objected to him continuing with the trial and that he had heard some conversation that he was too tough. You heard that evidence, did you?

A. I heard that evidence.

Q. Now, isn't it a fact, and I would like you to look at your November 29th, 1956, report, that rather than the defence objecting to Magistrate Bartrem continuing with the hearing, they wanted him to hear the case and it was the Crown who objected? Is that not correct?

A. The indication was that they very much wished him to remain as counsel, sir.

Q. As magistrate, you mean?

A. As magistrate, yes. They even suggested that the magistrate was charged with this matter and he must adjudicate and they talked of applying for a prohibition if any other magistrate was brought in at this stage of

the game.

Q. Now, if I can read your part of the report where --

THE COMMISSIONER: Just a moment. Is not my understanding correct, that Magistrate Bartrem had in effect disqualified himself by reason of the evidence at the earlier trial?

MR MACKINNON: That was the Crown's position.

THE COMMISSIONER: That is the fact, isn't it?

A. That is what Magistrate Bartrem said.

THE COMMISSIONER: That is what Magistrate Bartrem said in the witness box.

A. Yes. This differs from my thought on the matter although I am not legally trained by any means. I would say what happened was this, that he first came to Peterborough to hear this case and it was agreed by counsel for the defence and the Crown that a transcript of the evidence in the original trial would be introduced as the evidence for this proceeding. And the magistrate then set a date for judgment.

He returned to the Court on that date and he suggested that it was then that he wished to hear the witnesses in person, and a further remand was then granted. After we had returned -- now I wouldn't say that someone else hasn't had

the same thought but if they have I do not know about it -- we returned to our office and talked the matter over among ourselves as police officers in our limited understanding of the law, and we felt that Magistrate Bartrem had now placed himself in the same position as what Magistrate Philp had, in that Magistrate Philp could not hear the case a second time, Magistrate Bartrem had perused the transcript of evidence, he knew what it was all about, and we felt then that he was now in the same class as Magistrate Philp.

We talked this over to ourselves and it was agreed that Sgt. Anderson -- and when I say agreed, he was the officer in charge of the branch -- now whether he did it by way of a memorandum or a personal representation or not through the Commissioner's office to take into consideration this fact, and they apparently did.

I feel that the Attorney-General's office did do this. And the next time when we appeared in Peterborough for trial or on this case Magistrate Hopkins from Hamilton was present there and it was then that counsel for the defence, Mr Gebirtig, and Mr Humphrey, raised considerable objection to the fact that Magistrate Hopkins was there and that Magistrate Bartrem was not there.

Q. Yes?

A. And they indicated and said that Magistrate Bartrem was charged with the case and he must adjudicate.

Now then, Magistrate Hopkins was content that he was going to hear the case and it was going to go on on this date. And counsel for the defence had asked for a remand in the matter but Magistrate Hopkins was satisfied he was going to go on with this case. He advised the Crown Attorney to call his first witness. And when the Crown Attorney did so both counsel for the defence stated that they were withdrawing from the case.

Then before any evidence was heard, the accused, which one or how many of them I don't know, advised the Court that under these circumstances they wished or that they wished to be represented by counsel and under these circumstances they felt in fairness to them they should be granted a remand to get other counsel since their counsel had withdrawn. And it was then that there was a recess in the Court and, if my memory serves me, Crown Attorney Bradshaw called to the office of the -- I say the office of the -- the Attorney-General's office, I don't mean an individual but to some person there who I don't know, and asked for some guidance on this, and it was felt that a remand was in order, and the Magistrate granted this order.

Now, as far as the toughness or as to who was the toughest, I have my own opinion of that comment, but it was granted. And the next appearance then, Magistrate Hopkins was there, Mr Gebirtig was not there or Mr Humphrey was not there, and the accused, all four were represented by Mr Arthur Maloney. And a plea of guilty was entered and the accused persons were — fines were levied against the four accused persons. Now, I could be wrong in some small degree but ——

MR MACKINNON: Q. You are very accurate, reading your report, Witness. You have had a full day. I see, sir, it is now ten after five.

THE COMMISSIONER: I think before you leave that ——

MR MACKINNON: I wasn't going to leave it; I was going to come back to it tomorrow, if I might.

THE COMMISSIONER: Well, at the moment I don't see anything sinister about any part of that. Are you suggesting there is?

MR MACKINNON: All I am suggesting is — I haven't made any suggestions, I don't believe, sir, but if you are asking me for some I shall make them now.

THE COMMISSIONER: Yes.

MR MACKINNON: What I am suggesting is that Magistrate Bartrem wasn't quite correct

with the impression he left at least me with, that the accused were objecting to him being on the case because he was too tough. It was the reverse position; they were most anxious to have him continue and not have Magistrate Hopkins on the case.

I was going to come to the statements in this gentleman's report of November 29th, 1956, the substance of which he has admittedly given to us.

THE COMMISSIONER: Well, it doesn't make much difference whether Magistrate Bartrem was tougher than Magistrate Hopkins or vice versa.

MR MACKINNON: It may have some significance, sir, if I may put it this way, that if we discover that on September 12th no one indeed knew that Magistrate Bartrem, that counsel didn't know that Magistrate Bartrem was to be appointed, and of course we haven't come to that stage yet, to know just where this information is; then it may be of some significance indeed that this man Pooley would know as early as September 12th that Magistrate Bartrem was going to be appointed. It may be that Bartrem had not as yet been appointed as of September 12th. And yet Pooley is able apparently to identify him.

Now, it may be that everybody knew from July that he was going to be appointed but

that hasn't been the evidence to date.

THE COMMISSIONER: Well, there is no evidence either way.

MR MACKINNON: No, but I want to get this on the record so we will know where we are at when that evidence does come. I don't know that it will ever come. It may be when we get to that aspect of the matter that he was appointed on July 18th, or he may not have been appointed until September 18th. I don't know.

THE COMMISSIONER: Now, until what hour do you want to adjourn tomorrow? Mr Rose is having you busy tomorrow morning, Mr Wilson, is he not?

MR WILSON: Well, as the Court of Appeal sits at eleven o'clock I think if we adjourned until two or two-fifteen, Mr Commissioner, tomorrow afternoon that would be all right.

THE COMMISSIONER: All right.

MR MACKINNON: Is it to be two or two-fifteen?

MR WILSON: On that last point, the report of November 29th which was referred to when Magistrate Bartrem was in the box, reads as follows:

"2. The Crown Attorney stated "that it was felt that Magistrate "Bartrem had disqualified himself

"from dealing further with this
"case as a result of this procedure.
"Magistrate Hopkins therefore had
"been assigned to hear the case."

We will be calling Mr Bradshaw and he can probably tell us about the assignments of magistrates in this particular case.

THE COMMISSIONER: Very well. Tomorrow at two o'clock.

---Whereupon the Hearing adjourned at 5.13 P.M. until 2.00 P.M., Wednesday, April 25, 1962.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

TRANSCRIPT OF ARGUMENT ON APPEAL

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ROYAL COMMISSION ON CRIME IN ONTARIO

Wed., April 25, 1962.

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IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

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TRANSCRIPT OF ARGUMENT ON APPEAL

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A/AD

WEDNESDAY, APRIL 24TH, 1962

---Upon resuming at 2:10 p.m.

---The witness W.J. Shrubb resumed the stand.

MR. MacKINNON: I wonder, Mr. Commissioner, if there are any witnesses in the court room who are to be called?

THE COMMISSIONER: Yes, any witnesses in the court room will retire and be made comfortable elsewhere.

MR. MacKINNON: Q. Chief Shrubb, just to finish off for the time being this reference to the Tisdale Club and the question of which magistrate should preside; we will be coming back to this report in detail, but if I might just read to you from your report of November 29, 1956, to this effect, and you can tell me whether this is a correct recital of what transpired the day before, November 28th, and I am reading to you from the second paragraph of No.2. ---

THE COMMISSIONER: What exhibit is that?

MR. MacKINNON: It is not an exhibit yet. Mr. Wilson is going to put it in when he comes to deal with the Tisdale Club, but this is dealing with one subject matter that has already been raised before you, sir.

THE COMMISSIONER: All right.

MR. MacKINNON: (Reading):

"Counsel for the defence raised

"objection to the fact that the
"case had been opened before
"magistrate Bartram. It was their
"argument that Magistrate Bartram
"had been seized with the case and
"therefore he must adjudicate on the
"evidence as it had been placed
"before him."

Q. Is that a correct statement?

A. May I ask the paragraph you are reading from?

Q. I am reading from the second paragraph in paragraph No.2 of your report of November 29th, 1956.

A. Yes, that is correct.

Q. There is one little matter that I did leave out that comes in time before this, and that has to do with the approach by Stringer to you in connection with the proposed transfer from the Anti-gambling squad to Stringer's detachment. Now, Mr. Wilson put the submission to you, as I remember it, that Stringer couldn't have been too anxious to get you off the anti-gambling squad because he had suggested at the last meeting you had with him in connection with your transfer that you go through the usual channels and make application to be transferred. Now, I put this to you, witness; isn't it a fact that Inspector Stringer didn't make his return to orthodoxy, if I can put it

that way, until you had committed yourself to him, until you said, "I'll go to Peterborough"?

A. Yes, that's right.

Q. By that time he had had a commitment from you?

A. Yes, he had.

Q. Now, you also told us, I believe, that so far as you are aware, your report on Finnegan's approach to you, which is contained in Exhibit 125, dated May 15th, 1954, produced no further investigation, is that correct?

A. Not to my knowledge it didn't.

Q. And your report on Cronin, which is Exhibt 126, dated May 5th, 1955, produced no further investigation?

A. No, it didn't. As I say, on those occasions I made the suggestion that I would be prepared to go along with anything that was decided that may deter these persons from approaching police officers, and I heard nothing further.

Q. We will come to your next report, your report dated November 23rd, and numbered as Exhibit 105. November 23rd, 1956, Exhibit 105, which you presented to the Commissioner on November 26th, 1956, and on which you elaborated orally, I understand. Is that correct?

A. Yes.

Q. It also produced, so far as you are aware, no further investigation or results,

is that correct?

A. That is right, sir.

Q. Then just in connection with that, I think this confirms that you did report orally to the Commissioner on what Feeley was telling you over the telephone in the fall of 1956. You made a written report on the Tisdale Club on January 17th, 1957, to Sergeant Anderson, is that correct?

A. Would that be the report described as the eighth report of the Tisdale Club investigation?

Q. No, it is a report to Sergeant J.M. Anderson re Ronald Norton, Neil Harrington, Richard O'Brien and Kenneth Fleetwood.

A. I did submit a memorandum to Sergeant Anderson with reference to that.

Q. Dated January 17th, 1957. Once again, witness, we will be coming back to this particular report. There is just one sentence I wish to refer you to at the present moment.

A. Yes, I did prepare a memorandum.

Q. And it is the last sentence in the second paragraph, and you are referring to the suggestion that has been made as to how these accused will be dealt with, and you said this:

"This suggestion had been somewhat
"along the same terms as had been
"suggested by Vincent Feeley in a

"telephone conversation he had
"with me about the same time, a
"verbal report of which was placed
"before the Commissioner, November
"26th, 1956."

This is a sentence which you dictated, is it not?

A. Yes, that is right.

THE COMMISSIONER: The suggestion is along the same terms as what?

MR. MacKINNON:

". . . as had been suggested by
"Vincent Feeley in a telephone
"conversation he had with me about
"that same time, a verbal report
"of which was placed before the
"Commissioner, November 26th, 1956."

Q. So I suggest, Chief Shrubb, that that does confirm that you did report to the Commissioner on these telephone conversations?

A. Yes, that's right.

THE COMMISSIONER: Q. All of them?

A. All of the telephone conversations, my lord? I would say a great deal of them. To pick them out specifically, I wouldn't say that I took them specifically, but the essense of them all I would say would have been reduced and reported to him, yes, sir.

MR. MacKINNON: Q. Now, did you ever ask anyone after this meeting with the Commissioner

of November 26th, 1956, apart from Sergeant Anderson, whether any investigation of Inspector Stringer was being made, and if not, why not? Did you ask anyone about this?

A. No.

Q. Other than Sergeant Anderson?

A. No, I didn't. I know I commented to him, and I had done that certainly, if someone were going to take ahold of it, they should take ahold of it, that they should have gotten his diaries, and his weekly reports and what-not as soon after that time as possible so that they would show his actions and where he was on those particular dates. But that was nothing other than a discussion that Sergeant Anderson and I had.

Q. I think you probably were unduly optimistic making that suggestion, because we found that Inspector Stringer's diaries don't cover all his activities. So it would appear then so far as these confidential reports you were making, that the only results, that you were receiving at least, were that in some fashion unknown to you the contents of these confidential documents were coming into the hands of the gambling fraternity, is that correct?

A. Parts of them were, yes.

Q. Now, if I may turn to the summary of your 1957 diary, which has been given to me.

Now, I do not want you to mention the magistrate's name ---

A. May I just see what you are going to read?

THE COMMISSIONER: Well, give him his 1957 diary, Exhibit 117.

THE WITNESS: The date?

MR. MacKINNON: Q. April 17th, and this had to do --

A. This is something which, in my perusal of my notes and what-not ---

Q. Well, may I ask you the question, sir; on April 17th did you and Constable Moore and Sergeant Harry Long, plus three morality officers of Metro police, investigate the Jordan Club at 104 Adelaide Street?

A. Yes. And before we go to that, I would ---

THE COMMISSIONER: Just a moment.

THE WITNESS: I would like to make this known, that although there was a card there by the same surname as would appear there, I believe that in all I would like to say about that specific item.

MR. MacKINNON: Q. You did examine the membership cards?

A. Yes, I did.

Q. And there was a membership card which you state here was believed to be that of a certain person

A. Yes, I have said that. The reason I say differently now is this, that in no place have I recorded any initials or anything that I couldn't support a statement of that --

Q. Did anyone else see this membership card?

A. It is possible that they did.

THE COMMISSIONER: Let me see your diary.

THE WITNESS: Yes. I think what Mr. MacKinnon is reading is part from an interjection that I had placed. It will not be noted in the diary, but it is an interjection into the day that shows on that document.

MR. MacKINNON: Q. The report that you gave to Inspector Graham?

A. Yes.

THE COMMISSIONER: I don't see what you are talking about.

THE WITNESS: That is what I say, my lord, there is an interjection and that is not contained in the diary itself.

MR. MacKINNON: Q. Now, Mr. Commissioner, to make this more relevant, it is now a matter of record that this same person was, on this same day, April 17th, 1957, found on the, or was present on the premises at the Centre Road Veterans Club with Mr. McDermott and David Humphrey, so that is why I am raising this. My point is it is the very same date.

THE COMMISSIONER: Q. Well, you deny that

that was a fact, do you?

A. I can't say anything more than that card contained that surname, and I wouldn't be surprised, when I looked at that card that night, that I did have knowledge of the person being out at the other club, but I didn't write the full name that was on the card or anything else, and I feel I couldn't say anything further than I have already on that subject.

Q. But you believed it to be --

A. At that time I did.

Q. -- a membership card for this particular man?

A. Yes. I would say when we were in there at that time there were no members present or anything else. We had the run of the mill, so to speak. This was an investigation that was to have been not too much said about, and I know that Sergeant Long was called upon afterwards to give an account of his presence at this club, even though we were supposed to have retained the matter as confidential.

THE COMMISSIONER: Q. You didn't get in in an orthodox manner, is that what you mean?

A. Well, I will tell you plainly we went in through a fire escape, down the hallway, and we were in.

MR. MacKINNON: Q. But you did have a warrant?

A. By all means we did, Sir. Because

no one was there we didn't feel it was any reason why we shouldn't examine the place.

Q. Then if I may turn to Exhibit 123, your memo of June 3rd, 1958. And that is in connection with, as you will remember, Mr. Bowman's request for information on Feeley and his address.

A. Yes.

Q. And your subsequent telephone calls to the Motor Vehicle Department about licence registration?

A. Yes, sir.

THE COMMISSIONER: Exhibit 123?

MR. MacKINNON: Exhibit 123.

Q. Which information got back to Feeley within 24 hours?

A. Yes.

Q. The fact that you had telephoned. Now, you stated that so far as you knew the only people who knew of your telephone call would be yourself, unless someone overheard you - you were calling from your office - Mr. Bowman, and the officials in the Department of Transport, the people there to whom you made your request?

A. Yes, unless someone overheard me.

Q. There is a name here that might indicate that someone else did know, and I am referring you to the second paragraph on page 2 of your letter. The second paragraph, page 2, second sentence, you state:

"I left this office and in due
"course Miss E. Mather of this
"branch received the information
"that 1958 licence number . . ."
so and so,
"was the renewal for the previously
"mentioned 1957 licence."
So apparently Miss Mather would know about your inquiry?

A. Yes, this is a fact.

Q. Is she the same Miss Mather to whom you have reference in Exhibit 121, being the Bell Telephone list, and you mentioned an Elizabeth Mather to whom a phone call apparently was made. Whether they succeeded in completing it I am not sure. It was made on June 3rd, 1958.

A. Well, that phone call, the phone billing is "E.Mather" and the person referred to where it says "person to person" to indicate a person to person call, said "Elizabeth". In my own thought the person who that service is registered to is not the same person as Elizabeth Mather.

Q. Was this secretary's name Elizabeth?

A. Elizabeth, yes. We have thrashed that particular ticket out among ourselves, and Miss Mather. We always felt that the gamblers made it one of their points to determine what our phone numbers were and any facts or anything

of that sort, or any person associated with the branch, and the Miss Mather, Miss Elizabeth Mather, our secretary, who I have every confidence in, had just changed her residence address and we were of the opinion that they were endeavouring to find out perhaps what her new phone number was, and consequently they found the listing, "E.Mather", figured it was Elizabeth Mather and called, and that is why they asked for "Elizabeth". If that isn't right --

Q. But am I correct in assuming then that Elizabeth Mather never at any time was at this number?

A. No. No.

Q. It was another E.Mather completely?

A. Yes. We discussed it with her, and it was amusing to her actually. That is over in Scarborough and her apartment she moved to is up here --

THE COMMISSIONER: Q. Well, it wasn't in Scarborough anyway?

A. No.

MR. MacKINNON: Q. And the apartment she lived in previously was not in Scarborough?

A. No.

Q. That was what I was confused about, at some time whether she had that number.

A. I think I asked for the information and I left the office to take it for me, and she did so, and she gave it to me.

Q. Also in 1958, and this is Exhibit 124-A, being your confidential report dated April 11th, 1961, to Chief Inspector Graham, at page 13 of that report in my copy there is a portion crossed out which reads - and you are reporting on what Feeley had told you in a telephone conversation on May 20th, 1958, and apparently Feeley said --

THE COMMISSIONER: Page 13?

MR. MacKINNON: Page 13, sir.

"Cronin told me about a place in "Windsor where they cut a hole in "the roof at four or five in the "morning."

Q. Now, were you familiar with this particular episode that Feeley was describing to you?

A. Well, that is a trick that we would perform if we felt it would get results. It is something that it was a means of entering.

Q. Do you know whether it was done or not?

A. I had nothing to do with it. Whether it actually took place or not, I don't know.

Q. You didn't check up subsequently to see whether Feeley's information was accurate?

A. No. I don't know that the branch ever did cut a hole, but certainly we talked about it and we sized it up, and we were on the

roof, I would say that, looking over an air-vent escape, trying to --

Q. This is the Roseland Club?

A. Yes, that is right.

Q. And, incidentally, I notice throughout this report there are a number of portions sort of crossed out. That isn't your handywork, is it?

A. No, sir.

Q. Well, you gave evidence at the trial of Feeley, Wright and McDermott, did you not?

A. Briefly.

Q. Were you told not to make reference to certain matters?

A. No, sir.

Q. Now, Exhibit 120 is your report or memorandum dated July 31st, 1958, to Mr. Clark, the Acting Commissioner. Now, first of all, I notice in ink,

"Copy of this report given to

"P.C. Scott on May 3rd, 1961."

Signed, "J. Wade". Do you know anything about that?

A. No, I don't, sir.

THE COMMISSIONER: Q. Who is J. Wade?

A. I don't know, sir.

MR. MacKINNON: Q. P.C. Scott, I suppose, could be the P.C. Scott whose evidence we have already heard in this Commission?

A. Constable George Scott is the only P.C. Scott that I know of.

Q. Then I see where you have sent a copy of this letter to the Chief Inspector, C.I.D. Who was that? --

THE COMMISSIONER: What letter?

MR. MacKINNON: This letter, Exhibit 120, dated July 31st, 1958. Letter or memorandum.

THE WITNESS: Memorandum.

MR. MacKINNON: Q. Was that Chief Inspector Franks?

A. Yes, it was, sir. The reason I did that -- what is the date on that again?

Q. July 31st, 1958.

A. I believe Sergeant Anderson was on his holidays and I was in charge of the branch, and an inquiry had come through, as told to me by letter, come through Chief Inspector Franks. Therefore, I sent a copy to him so as he would have full knowledge of what I had did as a result of his inquiry.

THE COMMISSIONER: Q. You say Anderson was away at the time?

A. Yes, I believe he was on holidays, my lord.

MR. MacKINNON: Q. I notice that in page 3 of this memorandum, the second last paragraph, after you have recited all sthe facts which you have given in evidence, you say:

"The above-mentioned facts were related

"to Chief Inspector Franks, Wednesday,
"July 30th, and it was decided that
"Mr. L. Silk be called to see if he
"had received a call from Mr. Hawkins
"with respect to this matter."

So you did report orally in the first instance, apparently, to Chief Inspector Franks?

A. I did.

Q. Now, first of all, with regard to your call to Mr. Silk, do you know whether Chief Inspector Franks was present when you made this call?

A. No, I don't.

Q. You apparently discussed it with him?

A. No, I don't know that. If I were to guess, I would say he wasn't, but the Chief Inspector's office was across the hall from mine, and I perhaps used my own phone.

Q. But in any event did you have any, until we arrived here, did you have any repercussions or reactions to this report?

A. No, sir.

Q. And, so far as you know, or so far as you are aware the report was received by Commissioner Clark and Chief Inspector Franks?

A. Yes, sir.

Q. Now, Exhibit 121, which is a list of phone calls in May and June of 1958, you stated that you were unable to secure a date in

June for the call to James Maloney, and that appears on page 4 of this exhibit. I wonder if you could help us localize it at least in this fashion; can you tell me when you picked up the toll slip for this call?

A. Yes, if I had the packages of toll tickets. I am not sure in which package it is now.

THE COMMISSIONER: Let me see Exhibit 121, please.

THE WITNESS: The package designated as Exhibit 122 I obtained from the Bell Telephone Company on June 16, 1958, and that does contain a ticket.

THE COMMISSIONER: Q. What date?

A. That I picked them up?

Q. Yes.

A. June 16, 1958. Now, that ticket shows June, and there is a portion of the date shown there, and it could be a "7" or it could be "2". And I do have in that same package tickets for June 3rd, 4th, 5th, 7th and 10th.

MR. MacKINNON: Q. So, in any event, it would be a call that was made some time between June 1st and June 15th?

A. I am inclined to think so.

Q. If you picked it up on the 16th it couldn't have been after that date anyway?

A. Yes, and that would be a billing period, you see.

Q. And more likely June 2nd or June 7th?

A. If I were to guess between the two, I would say the 7th.

Q. Then also in connection with this exhibit I have noticed, witness, in looking at Exhibit 98, which is a list of the police raids on theFrontier Club, and in particular refer to the raids made by the Bertie Township police on this club, that there were raids on the 13th, 14th, 15th, and 17th May, and the 24th May. --

THE COMMISSIONER: What date?

MR. MacKINNON: May 13th, 14th, 15th, 17th, 24th. May, 1958.

And it appears to me that with the exception of May 17th, there were phone calls from this Feeley number to this club on the other nights.

THE COMMISSIONER: Now, just a moment. Let me see Exhibit 98. Is it 98 you are referring to?

MR. MacKINNON: Yes, sir. In May, and I am referring to these specific dates, because Exhibit 121 does not start until May 13.

THE COMMISSIONER: 14th, 15th, 17th and 24th and 29th.

MR. MacKINNON: 24th and 29th. Well, we do not have calls going on this list to the 29th.

THE COMMISSIONER: All right. Having

referred to that, now you come back to the toll tickets.

MR. MacKINNON: That is right, and it shows calls to this particular club from Feeley's number on May 13th, 14th, 15th, 18th, and intervening days, but also again on the 24th at one a.m. And what I wanted to ask this witness, whether he had made any investigation to ascertain whether possibly these phone calls were tip-offs to the club that they were going to be raided on these particular nights?

THE WITNESS: I have no way of knowing that, sir.

MR. MacKINNON: Q. Did Feeley suggest this to you?

A. No. No. I never discussed these toll tickets with Feeley at all.

Q. I realize he didn't know you had them, but I was just wondering if in any of these conversations he mentioned the raids by Bertie Township, and they were aware - by Bertie Township police - and that the Frontier Veterans Club were aware of them. In any event, you did state in your evidence, I believe, to Mr. Brewin, that you believe that these illegal gaming clubs could have been put out of business by constant raiding. What I want to ask you is, were you aware just at about that time in June, 1958, that this Frontier Club had indeed been put out of business by the constant raiding

of the Bertie Township police.

A. Feeley told me that it was closed and it was no longer going to operate, and we attributed it to the fact of the perseverance of the Bertie Township Police Department.

Q. Who were incorporated, I understand, in January, '57?

A. That is what I am told.

(Page 3355 follows)

Take B
D.O'N

Q. From reading Exhibit 124, which is your confidential report to Inspector Graham, I may be wrong in this, but I had the impression you had also secured toll tickets for some of the other telephone numbers involved; is that correct?

A. Well, I checked some of the numbers that appeared from the Feeley number. I checked some of the numbers that he was calling.

Q. I don't want you to give the man's name at this stage.

THE COMMISSIONER: What are you referring to now?

MR. MacKINNON: 124B, page 3, near the bottom of the page.

Q. Now, you refer to a Ridgeway number as being listed to a certain person?

THE COMMISSIONER: Just a moment.

MR. MacKINNON: Have you got that, sir? It is the top name.

THE COMMISSIONER: Yes, Ridgeway 511 J 12.

MR. MacKINNON: Q. Now, I cannot see that number which is referred to in Exhibit No.121.

A. No, sir.

Q. Now, were there some other toll calls that you secured?

A. No, what I did, I took the numbers called out of the Feeley number and then I run

a check on some of these and I found that Ridgeway 511 J 12 was called from Elgin 4 5071.

Q. Who was Elgin 4 -- what was that number?

A. Elgin 4-5071.

Q. That is Jolley's number?

A. Yes, sir, and there was an indication that calls were being made, or one call, at any rate, in the period that I checked.

Q. Shortly after the Jolly number was called from the Peeley number?

A. Well, the date I saw it was May 3rd, 1958 -- I am sorry, pardon me, May 1st, 1958, a call was made from Niagara Falls, Elgin 4-5071 to Ridgeway 511 J12 at 9.00 a.m.

Q. Did you find any more than one call to this Ridgeway number?

THE COMMISSIONER: What are you asking him? To draw some inference from that?

MR. MacKINNON: I don't know what inference, but certainly, to get the information with respect, Mr. Commissioner, there may very well be inferences. This person is a member of the Bertie Township Police Department.

B 2

Q. I am asking if there were any other calls.

A. None that I found, sir.

THE COMMISSIONER: In other words, you

got all the information you think was available on that?

MR. MacKINNON: On that one, yes.

Q. I notice at the bottom of page 3 there is a Fort Erie number given. In fact, it is given, that same number, is given up about four numbers, as well. Now, from whom were calls made to this number and when?

A. I found that there was calls made to Fort Erie Number 984, from Niagara Falls number Elgin 4 5071. There was a call on the 1st of May at 9.00 a.m.

THE COMMISSIONER: Just a moment.

MR. MacKINNON: Q. The same time as the call ---

THE COMMISSIONER: Just a moment. Calls from Elgin 4-5071 to Fort Erie 984 on what date?

A. May the 1st.

Q. Yes.

A. At approximately 9.00 a.m.

Q. Yes.

A. There was another call between the same two numbers on May 3rd at approximately 9.40 a.m. There was another call May the 6th at approximately 10.20 a.m.

Q. Yes.

A. For the period of time that I checked those numbers, those are the only ones from Elgin 4-5071. And I did run a check on Fort Erie number 984 and I found that there was

also calls going from that number to the Niagara Falls number Elgin 4-3071.

MR. MacKINNON: Q. At a later date?

A. There were so many calls from the Fort Erie number 984 that I didn't go into detail and record all the times and the dates, but there was quite a few of them.

THE COMMISSIONER: Q. 984 is a restaurant?

A. Yes, a restaurant registered to ---

Q. All right, it is a restaurant?

A. Yes, sir.

MR. MacKINNON: Q. Is it located right across from the race track?

A. I don't know whether it is, sir.

Q. There is one other matter I am wondering if you were aware of at that time, and that is this. Were you aware that Sergeant Hatch of the Essex Department of the Ontario Provincial Police, who was in charge, we have heard, of the raids conducted on the Roseland Club, requested permission from his superiors not to make any report on his raids or anticipated raids?

A. I have been told this.

Q. Because he was worried, as you were, about leaks of confidential information. You knew that?

A. That seemed to be his problem.

Q. So you weren't the only one having

a problem?

A. No, sir, I wasn't.

Q. Oh, yes. Now, still with Exhibit 124B, and this time on page 5. Now, on page 5 in the middle of the page you refer to a call made to you by a senior member of the Attorney General's Department on September 19th, 1958, between three p.m. and four p.m. with regard to the Ramsay Club?

A. Yes, sir.

Q. Now, can you tell us about that phone call and the substance of it?

THE COMMISSIONER: Q. Isn't there something contained in the report? Can you add anything to what there is in the report?

A. I don't believe I can add to it, sir.

MR. MacKINNON: I would like to get it on the record, sir. May he read it?

THE COMMISSIONER: He is referring to his report, Exhibit 124B, page 5, the last paragraph on that page.

MR. MacKINNON: The last paragraph on that page and the first paragraph on page 6.

THE COMMISSIONER: All right. That identifies it, doesn't it? If you want to read it into the record, all right, leaving the name out.

MR. MacKINNON: Yes.

Q. Would you do that?

A. Yes.

" I was on duty in the gambling
"branch and Sergeant Anderson was not
"in the office. -- Telephoned and
"made inquiries with respect to the
"case against the Ramsay Club, which
"Sergeant Anderson had under
"investigation. He stated that --
"confidentially -- representation had
"been made to him,to cause him to try
"and have the money which was seized
"from the persons attending at the
"Club, the night of the raid, returned
"to them. The amounts of money seized
"were quite large in some instances and
"he wished for me to tell him what
"evidence there actually was, to cause
"the retention of this money, in
"connection with the investigation.
"The enquiry was on behalf of one
"Magliarditi and one Volpe. I advised
"that I was not familiar with the facts
"of the case, as I had not been present,
"but that I would get the report and
"call him back. This I did. I called
"and he answered. I acquainted him
"of the amounts of money seized from
"the persons he mentioned, of the
"money wrappers found, the soaped money,
"where it was found, the consecutive

"serial numbers of the amounts found
"on different persons, the fact the
"serial numbers of the money found
"on the persons was almost consecutive
"to a sum found in the safe at the
"Hill Top Motel. The fact it was
"American money, the finding of dice,
"the records of some, etc. He said
"this information was fine, that any
"persons who had such sums of money
"on their person when such circumstances
"prevailed, must be 'keepers' and not
"found-ins and there was every reason
"for holding as an exhibit, the money
"seized. Even though the persons who
"sought the return of this money
"alleged that it was the receipt from
"a hotel and service station business.
" -- Stated there was every ground to
"retain it. His final statement to me
"me was 'That's fine, I want to tie
"this up for a special reason'. His
"conversation seemed to drift from
"his first enquiry, as to whether there
"was sufficient grounds to order the
"return of this money, to the facts
"of the case to determine the evidence
"of a gaming house and that of keepers.
"A notation I made at the time was
"'Would the A.G.'s files show this enquiry'."

Q. That is fine. The only question I would like to ask you, is, did you ask this gentleman as to what his special reason was?

A. No, I didn't. I didn't feel I had the right to.

MR. MacKINNON: That is all, thank you.

THE COMMISSIONER: Have you some questins, Mr. Wilson?

MR. WILSON: One or two, Mr. Commissioner.

EXAMINED BY MR. WILSON:

Q. Dealing with these numbers that have been called by Feeley and which I referred to on Exhibit 121, I think it is, did you find any calls from Fred House or Tartaglia's number, the restaurant, to either McDermott or Feeley or the numbers they were using in Port Credit?

A. Did I find any from theirs?

Q. Yes. You were checking their numbers to see who they were calling, I gather?

A. Yes, that is right.

Q. Yes?

A. No, I can't say that I did, sir.

Q. There is one other question. I think you gave us in evidence yesterday, or told us in evidence yesterday, that Feeley had told you on October 10th the people who were

being charged in respect to the Tisdale Club raid would plead guilty?

A. Yes.

Q. And that fines were going to be paid. Now, in fact, they did not plead guilty on October 10th, did they?

A. No, they pled guilty at a later time.

Q. Just so we will fix the time, it wasn't until it was referred to, I think in your report of January 17th, 1957, and it was on January 16th, 1957 that the plea of "Guilty" was entered?

A. Yes, that is right.

Q. And would the change or any question about Magistrate Bartrem's right to hear the case on October 10th in any way interfere with the plea of guilty?

A. Would you say that again?

Q. I say, on October 10th, would it have been possible for them to have pleaded guilty if they had decided to do so at that time?

A. I suppose they could have, yes. At that time there was no dispute about the jurisdiction.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: That is all.

--- The witness retired.

MR. WILSON: I will call Mrs. Gladys Shrubb.

MRS. GLADYS SHRUBB, Sworn

THE COMMISSIONER: A. Do you want to sit down? Get her a chair.

A. I am a little shaky.

THE COMMISSIONER: Get her a chair.

(Witness sits on chair in witness box)

EXAMINED BY MR. WILSON:

Q. You are the wife of Chief Constable W.J.Shrubb?

A. Yes.

THE COMMISSIONER: Mrs. Shrubb, if you would raise your voice a little bit.

MR. WILSON: Maybe we can adjust the mike.

Q. What year were you married?

A. '42.

Q. 1942?

B 4 A. Yes.

Q. And then your husband was in the service. He spent a period in the armed services?

A. Yes.

Q. The Air Force?

A. Yes.

Q. And after the war you resided at what places?

A. Hamilton, Ontario and Chatham.

THE COMMISSIONER: Q. I can't hear you.

A. Hamilton.

Q. Yes.

A. And Chatham.

Q. Yes.

A. And Odessa.

Q. Odessa?

A. Yes, that is near Kingston.

MR. WILSON: Q. And where were you residing when your husband joined the Ontario Provincial Police?

A. Hamilton.

Q. At Hamilton?

A. Mm-hmm.

Q. And after that time where was he stationed?

A. After he joined we moved to Chatham.

Q. Chatham. And about how long was he stationed in that area?

A. Seven years.

Q. Seven years. And approximately what years did that cover? Was it in 1954 he was moved to Toronto?

A. Gee, I couldn't say.

Q. I think we have been told that he

was moved to Toronto in 1954, around April the 1st of 1954, so that would take us back to about 1947 to 1954, as far as your period of residence in Chatham?

A. Yes.

Q. And during that period did you work at the Lloyd Bag Company?

A. Yes, I did.

Q. And the head of that company is Mr. Donald Lloyd?

A. Yes.

Q. And there is a reference I see was made by your husband in one of his reports that you were managing a business in Chatham?

A. Yes.

Q. What business was that?

A. The Town House.

Q. What is the Town House? What kind of an operation was that?

A. Well, it is something like a motel where they have rooms and they had a dining room.

Q. And you were managing that for Mr. Lloyd?

A. Yes.

Q. And then, approximately, when did you move from Chatham to Toronto?

A. I couldn't say the date.

THE COMMISSIONER: Well, suggest a date to her.

MR. WILSON: Q. Was it in the latter part of 1954?

A. I feel -- we were in Toronto for five years and we have been in Toronto about four years, so it would be nine years.

Q. Let me put it this way, how long after your husband moved to Toronto did you follow him? About six months later or a year later or what was it?

A. Just a few months.

Q. Just a few months. So it would be somewhere around the middle of 1954 you moved to Toronto and continued to reside in Toronto until you moved to Peterborough; is that right?

A. Yes, sir.

Q. And you moved to Peterborough around about the 1st of January, 1959?

A. Yes.

Q. Now, when did you first meet Vincent Feeley?

A. I met him for the first time in Mr. Lloyd's company.

THE COMMISSIONER: Q. Speak a little louder.

A. When I first met him?

MR. WILSON: Q. That is Mr. Donald Lloyd of Chatham?

A. Yes.

Q. And he introduced you to Mr. Vincent

Feeley?

A. I am not sure he introduced me as -- by that name, but I was in Mr.Lloyd's company the day I met him.

Q. And where was this meeting?

A. At the King Edward.

Q. What part of the King Edward?

A. I met Mr. Lloyd in the lobby. He had some business to attend to and he called me and said he had some business he would like to talk over with me and I said if I could get downtown I would meet him in the lobby.

So we met in the lobby and he suggested we go into the lounge, so we went into the lounge and that is when this man came to the table.

Q. And that is where you met Mr. Vincent Feeley?

A. Yes.

Q. Can you tell us what year that was?

A. No.

Q. Well, now ---

A. I believe -- I don't know whether --

Q. Was it not in 1957?

A. I don't know whether it was the second year we were in Toronto.

Q. The second year you were in Toronto, that would be 1956.

THE COMMISSION: She is trying to recall.

THE WITNESS: I am not sure. I just couldn't be sure. I never thought to figure it out.

MR. WILSON: Q. Just do your best. You say that it might be the second year you were in Toronto?

A. I couldn't say. I couldn't swear to that.

Q. Mr. Lloyd, I take it, although you had worked for him in Toronto, was also a good friend of your husband and yourself?

A. Yes.

Q. On this occasion when you were in the King Edward lounge with Mr. Lloyd and this man you later knew to be Mr. Vincent Peeley came to the table?

A. Yes.

Q. Did he join the party, or the two of you, rather?

A. Yes. He sat down after he made his acquaintance, but I couldn't say just what he said. I am not sure who he was introduced as at that time.

Q. And after that time, how frequently did you see Mr. Vincent Peeley?

A. Well, it was sometime after that - in the meantime he had called me to see if he could see me and a good many times I refused.

THE COMMISSIONER: Just a moment, now.

Q. A good many times after that he

called you and asked if he could see you and you refused?

A. Yes, that is true.

THE COMMISSIONER: All right, I got that, thank you.

MR. WILSON: Q. When did you next see him?

A. It was in, let me see, I think it was Eaton's College I ran into him once after that and we just passed the time of day.

Q. Well, then, after that, when did you next meet with him?

A. I was in the King Edward one afternoon, in the lounge, and he came over to the table.

THE COMMISSIONER: Just a moment.

THE WITNESS: Or, no, it was the Royal York, I am sorry.

THE COMMISSIONER: Just a moment.

Q. Later in the lounge at the Royal York. Were you there alone?

A. Yes.

MR. WILSON: Q. And did you have ---

THE COMMISSIONER: Just a moment.

MR. WILSON: I am sorry.

THE COMMISSIONER: Q. And he came over to your table; is that what you said?

A. Yes.

Q. And when was that.

A. That was about -- oh, I don't know.

I couldn't say. It was sometime after I had met him.

Q. Naturally it was sometime after you had met him. Aboutnow long?

A. Oh, perhaps -- a few months later.

Q. Two or three, four months or what?

A. Maybe three or four months.

MR. WILSON: Q. And did you have a drink and talk with him on that occasion?

A. Yes.

THE COMMISSIONER: I can't hear you.

THE WITNESS: Yes.

MR. WILSON: Q. Then when, after that, did you next meet with Mr. Vincent Feeley?

A. Well, I stopped seeing him -- I hadn't seen him for some time after that, but in the meantime he had been calling the house.

Q. Well, you say you didn't see him for some time after that. When did you next see him?

A. I am not sure. I think -- I am not just sure. I think I met him one time after that.

Q. At what place?

A. I am not just sure of the hotel.

Q. You are not sure of the hotel?

THE COMMISSIONER: Q. Was it a hotel?

A. Pardon?

Q. Was it a hotel?

A. A hotel, yes.

Q. Yes, that is what I said.

A. Downtown.

Q. In Toronto?

A. Yes.

Q. By appointment?

A. He had called and asked me to meet him downtown, I believe.

Q. I can't hear you.

A. It seems to me he called and he kept calling and I told him not to call and he said if he could talk to me this last time that he wouldn't bother and I am not sure whether it was the King Edward or the Royal York.

Q. It was one or the other, was it?

A. Yes.

Q. Now, can you fix that date, approximately?

A. A few weeks after. Maybe two months later.

Q. Two months after what?

A. After the time before. Like, I never -- I kept telling him I couldn't see him, and the first few times, the couple of times I did meet him was just by accident and I thought, well, I could tell him not to bother me -- calling, so that was the last time I said that I would see him.

MR. WILSON: Q. Did you see him again

after that time?

A. Not that I can recall.

THE COMMISSIONER: Q. Pardon?

A. Not that I can recall.

MR. WILSON: Q. Are you sure?

A. As far as I can remember.

Q. Well, how many times did you meet with Vincent Feeley and have a drink with him, or whether you had a drink or not, how many times did you actually meet him after you were introduced to him by Mr. Donald Lloyd?

A. I thought I told you.

Q. How many would it be? What is the number?

A. About three or four times.

Q. Now, on these occasions -- can we fix the time, first, when you stopped seeing him?

A. I couldn't say for sure when that was.

Q. Can we fix it in any way with relation to the time you left ---

A. About a year before.

Q. About a year before you left Toronto for Peterborough?

A. Yes.

Q. Now, after you saw him for the last time, did he continue to call you on the telephone?

A. Yes.

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Q. And did the telephone calls continue through until the time you left Toronto -- up to the time you left Toronto?

A. Yes, but not as regular.

THE COMMISSIONER: Q. Not as regular as what?

A. Well, I mean -- I wouldn't be home. I was at work -- at school and I wasn't home to get any calls.

MR. WILSON: Q. What time of the day would these calls be made to your home by Vincent Feeley?

A. Oh, almost any time he would call. You see ---

Q. Would they be ---

A. Pardon me.

Q. No, you go ahead.

A. I am sorry.

Q. Would they be made at a time when your husband was there?

A. Yes, he would call when my husband would be there.

Q. Who would he ask for when your husband happened to be home?

A. He would always ask for Jack.

THE COMMISSIONER: Q. Every time he called up did he ask for Jack or did he call up to talk to you on occasions?

A. Sometimes he would try to talk to me. He would call in the daytime when, I

take it, he knew my husband wasn't home and I took it he was wanting to talk to me as well as my husband, but I never knew. He would just ask if Jack was there, so I really had no way of really knowing.

MR. WILSON: Q. Would Vincent Peeley ever pay you any money?

A. No.

Q. Did he ever leave any money on the table when he left you at any of these meetings?

A. Yes, he did, once.

Q. How much would be involved?

A. Oh, I would think the one time -- I don't know just what the bill was, but I would say he left me $40 or 30.

THE COMMISSIONER: Q. $40?

A. For to pay for the bill.

Q. What bill?

A. Like, when we had our drinks and food.

Q. I see. Was this on one occasion?

A. Yes.

MR. WILSON: Q. What would the bill for the drinks and food amount to?

A. I really don't know. The one time we ate was at the Royal York and I couldn't say, just now, what the bill was.

Q. Well, there was a balance over, I take it?

A. Yes.

Q. And about how much was left over?

A. I never ever counted it.

THE COMMISSIONER: Q. Just let me understand. You and he would be in the dining room at the Royal York, was it?

A. Yes.

Q. Yes. Having a meal together?

A. Yes.

Q. Yes. Well, did he leave you at the table?

A. Yes.

Q. And depart?

A. Yes. This time he had to leave and he just left the money.

Q. And left it for you to pay the bill?

A. Yes.

Q. And left you about $40?

A. No, I mean -- that is about -- I don't know what the amount was. May be about $10.

Q. I see. Forty dollars was the surplus over and above the cost of the food and the drink?

A. Yes.

MR. WILSON: Q. Did this happen on more than one occasion?

A. No.

Q. Well, you said something about he would have to leave.

MR. MacKINNON: She said he had to leave.

THE WITNESS: He just had to go and I was in no hurry to leave because I would sometimes, I would be downtown just putting in time, like. I was in no hurry to get home.

THE COMMISSIONER: Q. Was this during the daytime or the evening or when?

A. This is in the late afternoon.

Q. Around the dinner hour?

A. Yes, and I would have been going to have dinner downtown, anyhow.

THE COMMISSIONER: Yes.

MR. WILSON: Q. Well, about how often would you talk to him on the phone after you first met him and up until the time you stopped seeing him? About how often a month?

A. Well, he used to call, perhaps maybe twice a week at first.

Q. Twice a week at first. Then did it get less?

A. Yes, at the last.

Q. When you say "at the last", would that be 1958?

A. The last year.

Q. How often would it be the last year?

A. Maybe once every two weeks or something. Lots of times he would call it would be in the evening and my husband would

talk to him.

Q. When you were introduced to him by Mr. Lloyd, had you heard of Vincent Feeley before that time, while you were in Chatham?

A. I couldn't say for sure. My husband worked in Windsor and I could have heard the name before. I am not sure.

Q. Did you ever discuss with Mr. Lloyd, after he introduced you to Feeley, did you ever have any discussion with him about Feeley?

A. No, never, no.

Q. Well, when you were meeting with him, you knew what his occupation was, did you not?

A. Yes, I did, after I had met him.

Q. And did he tell you ---

THE COMMISSIONER: Excuse me.

Q. When did you first learn what his occupation was? You said after you met him. You met him in the King Edward Hotel with Lloyd. How soon after that did you learn what his occupation was?

A. Well, as soon as I realized what his name was, I realized who he was.

MR. WILSON: Q. Now, did he ask you any questions about your husband's work?

A. He could have asked me some. I couldn't say that he didn't, but to tell you

what he did ask and the way he asked, I couldn't say just what he meant by it.

THE COMMISSIONER: Q. I am afraid I don't quite understand you.

A. Well, I mean, he put it, let us say, put it in words I guess I didn't know if he was asking. He might, you know, just say, "Well, where is your husband today" or something like that, you know. But I didn't take it that he was trying to ask me anything.

MR. WILSON: Q. Well, in all these many calls you had from him, what was the general discussion you were having or the subject of the conversation?

A. You see, after I had met him that time, I realised I had made a mistake and I thought if I got nasty that he would tell my husband of my meetings, so I thought if I just went along andwas nice about it, that he would, in time, leave me alone if he found out it wouldn't do any good to ask anything, which I never ever gave him information.

Q. And you say he called your husband quite often at home?

A. Yes.

Q. And did you overhear, from time to time, what your husband was saying at his end of the telephone?

A. I could never make out what they were saying.

Q. And what brought about the termination of your association or meetings with Vincent Feeley?

A. I don't --

Q. Well, why did you stop seeing him?

A. Because I realized that, in time, that it wasn't the right thing to do and I realized how hard my husband was trying to make a go of his job and I had got into something that I really liked. I started hairdressing after that and I devoted all my time and I made up my mind if he was going to say anything, he could say it. It was the end.

Q. I understand in 1958 you took a course and then started to do some hairdressing?

A. Yes.

Q. Well, in 1955, did your husband discuss with you a possible transfer, by having a transfer made to Peterborough? That is, in the Ontario Provincial Police.

A. Did he discuss it?

Q. Yes.

A. He had discussed other jobs with me. At first he had discussed with me about going to Niagara Falls, and then he went to Niagara Falls and he tried for that job, which he could have had but didn't take it.

Q. Could you tell us what year the discussion took place about the possible job

in Niagara Falls?

A. That would be about the same time, I believe, as Peterborough.

Q. And what was the job in Niagara Falls?

A. Well, it was for, I believe, it was for the Assistant Chief job, I believe.

Q. Assistant Chief?

A. Yes, and he said it wasn't enough money, so he said: "I will turn that down and wait for another one to come up." And in a few -- I don't know how much later, but it come up in the paper, I believe it was in the paper about wanting a Chief in Peterborough.

(Page 3385 follows)

C/FMcG

MR. WILSON: Q. I am not talking about the Chief's job in Peterborough. First of all, did he talk to you about the proposal Inspector Stringer made to him about the transfer to Cobourg?

A. No.

Q. You say he never discussed that with you?

A. No.

Q. You are sure of that, because your husband has said in his evidence that he did discuss it with you?

MR. MacKINNON: Tell her the year.

MR. WILSON: Q. In 1955. When I say "Peterborough" I believe he was to be stationed in the Cobourg area?

A. If he did, I don't remember him doing it. He could have. I don't know. He often would discuss, you know, new jobs but I don't recall him saying that. He could have. I could have forgotten.

Q. You say he often discussed new jobs or the possibility of new jobs with you from time to time?

A. Well, we always wanted to have a home and we thought if we could get into a smaller place -- he was always interested in getting into a smaller place so we could buy a home. He never wanted to buy one in Toronto.

Q. Do you remember a discussion about

a possible job in Stamford about June of 1958?

A. I know the name is familiar but ---

Q. Well, you have not any clear recollection that he did discuss that?

A. That name sounds familiar. I don't know. He could have.

Q. After you came to Toronto, just do your best to recollect about how many possible changes to other jobs or other locations your husband discussed with you before he took the job at Peterborough?

A. He was quite happy in Toronto for a long time and then he got a little discontented and that is when he started talking about other jobs.

Q. When did he get discontented?

A. Well, at the last.

Q. The last year?

A. The last year or two, I guess.

Q. Was he discontented about the progress he was making in the force or about what?

A. No; he was always happy with his work but I don't know, he never -- I guess he figured he just wasn't getting any place, you might say.

Q. And was the money he was being paid a problem too?

A. Well, we never worried too much about the money. There were things we didn't

have but I don't believe that it was so much the money.

MR. WILSON: Mr. Commissioner, Mr. MacKinnon has raised a point as to whether this witness should be given any advice about her legal position under The Evidence Act, as far as any statements that ---

MR. MacKINNON: Well, I wasn't thinking of it in that light; I was wondering if she was a compellable witness as far as the husband is concerned. She is competent certainly but is she compellable under The Evidence Act? I just wondered if there had been any consideration of that given when you are going into the matrimonial history, as it were, on matters that appear to me to be quite irrelevant but nevertheless I wonder if she is even compellable. Maybe I could look at The Evidence Act.

THE COMMISSIONER: Supposing we have a recess of ten minutes then. Perhaps counsel would speak to me in my room.

---A short recess.

MR. MacKINNON: I think I should make it quite clear, Mr. Commissioner, that when I referred to The Canada Evidence Act before the adjournment -- I'm sorry, The Ontario Evidence Act -- I was not referring to it in the

sense that I felt this witness required any protection from criminal prosecution or anything of that kind at all. I want to make that perfectly clear. As I have explained to you, sir, in your Chambers, and as I have shown to Mr. Wilson, Section 11 of The Ontario Evidence Act states that a wife or husband is not a compellable witness to reveal matrimonial communications.

When my friend was getting into their moving problems, which I did not think were relevant before this or any Commission, I thought this witness should be aware of her rights. That is the only reason I raised that matter.

THE COMMISSIONER: Speaking for myself at the moment, I do not see any relevance or importance to it -- at the moment.

MR. WILSON: Q. When you had these meetings with Vincent Feeley and these conversations with him on the telephone, did he ever mention any of the clubs in which he was interested?

A. No, not that I can recall.

Q. Do you recall him making any mention of the Ramsay Club?

A. No, I don't.

Q. When you say that he might have got some information in a roundabout way what exactly do you mean by that?

A. Well, like if he asked if my husband were home.

Q. Or where he was that day?

A. Well, mostly if he was there perhaps.

Q. What did he ask you?

A. At the time I didn't think anything of it, you know, but as I got thinking of it I could see where he could have.

Q. You mean that there was a pattern of questions related to the whereabouts of your husband, was there?

A. Like if he would call and ask if Jack was there. If he wasn't there, I thought after he might take it that he wasn't home, that he would be out some place.

Q. Was your husband accustomed or did he discuss with you his work?

A. No; very seldom.

Q. There has been introduced here a special diary for 1958 which he says he kept at home. Did you ever see that diary?

A. No.

THE COMMISSIONER: Q. Did you ever see any of his diaries?

A. No.

MR. WILSON: Q. Did you ever examine any of the papers he had at home?

A. No.

Q. When did your husband learn for the first time that you were acquainted with Vincent Feeley and had met with him and talked with him on the telephone?

A. Not until it came up.

Q. That is, last week?

A. Yes.

Q. And that is when he spoke to you at my request?

A. Yes, sir.

Q. There is one reference that has been given in evidence in Exhibit 61, the Scott reports, under date -- the sixth report, April 14th, 1960 -- and it is under date of April 12th, item 3, which reads as follows:

"$2000 was paid to Corporal Shrubb's
"wife to induce Mrs. Shrubb to
"encourage her husband to accept
"the job opportunities at the
"Stamford Police Department and
"the Peterborough Police Department".

Now, what do you say about that?

A. I say it is not true.

Q. Did anyone at any time approach you and offer you money to induce your husband to take positions at either Stamford or Peterborough?

A. No, sir.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Any questions, Mr.

McKinnon?

MR. MacKINNON: No questions.

THE COMMISSIONER: Mr. Brewin?

MR. BREWIN: No, sir.

THE COMMISSIONER: That is all; thank you, Mrs. Shrubb.

---The witness withdraws.

MICHEL TARTAGLIA, sworn

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. Fort Erie.

Q. What business do you carry on there?

A. A restaurant business.

Q. Under what name?

A. At the present time it is known as Michel's Tavern.

Q. In 1958 ---

THE COMMISSIONER: Q. Have you a tavern license?

A. Yes, sir, since 1959, November of 1959.

MR. WILSON: Q. In 1958 were you carrying on that business at that location?

A. Yes, sir; I have carried on that

business since 1947.

Q. Under the same name?

A. Previous to that, I think it was '55 or '56, I used to call it the Blue Roof Restaurant and I changed the name of it to Michel's after my first name.

Q. What is the address; the Garrison Road?

A. Yes, sir, 179 Garrison Road. Sometimes we use the address Highway No.3. It is on No.3 highway.

Q. Somebody has mentioned it is close by the Fort Erie racetrack?

A. No, sir; it is approximately three-quarters of a mile or -- we are over on Highway 3 and the racetrack is north of the Queen Elizabeth. I would say we are about

c/2 seven or eight blocks away from the racetrack.

Q. What was the phone number in that restaurant in 1958?

A. 984.

Q. Fort Erie 984?

A. Yes.

Q. I understand since that time the number has been changed?

A. That is correct, sir, since we have had direct dialing.

Q. Now, there has been evidence here of a club known since 1957 as the Frontier Veterans Association. Have you heard of that club?

A. I have heard of the name, sir, and read in the paper from the reports but to the best of my knowledge there has been no club established in the Town of Fort Erie proper.

Q. Were you ever at the Frontier Veterans Association Club?

A. No, sir.

Q. You were in politics in that area, were you not?

A. Yes, sir, I was a member of the Town council since 1954.

Q. That is the Town council for Fort Erie?

A. Yes, sir.

Q. Yes?

A. I served as councillor for four years and as deputy reeve since 1957 until last year, sir.

Q. Do you recall a speech given by Mr. J.J. Wintermeyer?

A. Yes, sir.

Q. Exhibit 3, at page 104, there appears the following paragraph on the first column on page 104 at the bottom:

" A call to the home telephone
"number together with the name of
"the member of this government to
"which I have already referred.
"Ridgeway 5-11312, Fred House, the
"then Reeve of Bertie township, site

"of the Frontier club. Fort Erie
"5-57, Lloyd Williams, Fort Erie
"councillor. Fort Erie 9-84,
"Michael's Restaurant, 179 Garrison
"Road, and the business phone of
"Mike Tartaglia, then the Reeve
"of Fort Erie."

Now, you are the Mike Tartaglia, then Reeve of Fort Erie that is spoken of there?

A. Correction there, sir; I was never Reeve of Fort Erie.

THE COMMISSIONER: Q. You were Deputy Reeve?

A. Yes, Deputy Reeve. We have a Mayor, Reeve and Deputy Reeve.

MR. WILSON: Q. Do you know either Vincent Feeley or Joseph McDermott?

A. No, sir.

Q. Following Mr. Wintermeyer's speech there was a certain amount of publicity given to the alleged call to your business number?

A. That is correct, sir.

Q. And quite an article appeared in the Niagara Falls Evening Review on Thursday, November 30th, 1961. I will show you this and ask you if you recognize it?

A. Yes, sir. You are referring to this article here?

Q. That's right, where it says in part, "Liberal Leader John Wintermeyer Named

Niagara Falls and Port Erie Residents, some of them municipal officials" and so on. "Among those named were the Deputy Reeve of Port Erie". And you were the Deputy Reeve of Fobt Erie at that time?

A. That is correct, sir.

Q. And then what did you do about that when you heard about it?

A. Well, if I may, sir, the first knowledge I had of this referred to phone call which was in Mr. Winterneyer's speech was on the evening that it was given in the House. I believe it was Wednesday, November 29th, when the Toronto Telegram, some person from the Toronto Telegram phoned my place around ten o'clock at night to inform me that there was a call made to my number from a Vincent Feeley from a Port Credit number, which I have no knowledge of, and asked whether I had ever received a call. That was the first knowledge I had ever had of that phone call.

I at first sat there and was taken aback. I didn't know what to think. We were just coming into municipal election at that time in Port Erie. I had announced that I was going to run for Mayor of Port Erie. I thought possibly some one was playing a joke on me saying that I was involved in a big gambling ring. But then the following morning when I picked up the Globe and Mail and read the account there,

I read the account through and I saw that it referred to the fact that there was a call and the toll charges made from this Port Credit number to my number.

Now, I thought about it that evening and the following morning, on a Friday, I came over to Toronto and asked to see Mr. Winternoyer in the House, and I was successful and did see him around one o'clock in the afternoon.

I asked Mr. Winternoyer where the information came from in respect of this phone call because I had no knowledge of it. I never received such a call. I told him I felt it had marred my name, that I had lived in the Town of Port Erie all my life and I have a wife and three children and already I had received comments from people that I was a big-time gambler and that sort of thing. I told him I felt it was unfair unless they had checked and found if I was involved or not.

Mr. Winternoyer told me that he was awfully sorry, that he certainly didn't want to make it appear that I was implicated in any way, shape or form, and all he did was copy the notes from Corporal Shrubb's diary, and that is where the information came from.

I might add, sir, I then went back to Port Erie and made out a statement which I gave

to the press denying receiving the call, and it appeared in the Niagara Falls paper, I believe, the following Monday.

MR. WILSON: Q. December 4th. In other words, they gave full publicity to your denial and to Mr. Wintermeyer's apology?

A. Yes, sir. I asked for full publicity in view of the fact that when they ran the publicity the following day from his speech they headed it up as "Names Local Men" and right off in the first paragraph it started to mention the Deputy Reeve of Fort Erie and made it appear as if we were involved to a great extent, and then back about 33 paragraphs it just mentioned the fact that there was a record on file that there was a call made.

Q. I think Chief Constable Shrubb's evidence was to the effect that this call was from Mr. Jolley's phone to your home?

A. I have no knowledge of that, sir.

Q. Do you know a Mr. Jolley there?

A. I know Mr. Arthur Jolley, who is a Member of Parliament.

Q. Would he have reason to call you from time to time?

A. I wouldn't see why he shouldn't, sir. If you are familiar with town council work and Members of Parliament you are consulting Members of Parliament all the time.

Q. Did you ever have a call from Mr.

Jolley or anybody else that in any way pertained to the Frontier Veterans Club?

A. No, sir.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Any questions?

MR. MacKINNON: Yes.

EXAMINED BY MR. MacKINNON:

Q. I am just wondering if you are quite certain that Mr. Wintermeyer said that this information came from Shrubb's diary, because I can tell you that this information of the calls is not in Shrubb's diary? Was that expression used to you?

A. Sir, I do recall that he did say that it could have been from the notes of Corporal Shrubb.

Q. I see.

A. Not necessarily his diary. It could have been from his notes. He did mention that they were from Corporal Shrubb's information.

Q. Yes; I believe that is stated right in the speech. Now, you say you do know Mr. Arthur Jolley. Where does he live?

A. He lives in Niagara Falls, sir.

Q. And would it be a long distance phone call from Niagara Falls?

A. Yes.

Q. Can you recollect what occasion he would have to call you long distance in the morning?

THE COMMISSIONER: In what year?

MR. MacKINNON: Q. 1958. Did you get lots of long distance calls from Mr. Jolley?

A. Not too often, sir. I can recall back -- I cannot really recall the exact year, but seeing I operate a restaurant and I was interested in obtaining a liquor licence, he did make an appointment for me to go over to Toronto and see the Registrar. I have called him in that regard.

Q. He did assist you in getting a licence?

A. He took me over to see the Registrar but I was not successful, sir, until we had a vote in Port Erie and then I applied.

Q. Did he assist you at that time?

A. No, sir.

Q. Did you pay him anything for this assistance?

A. No, sir.

Q. I take it then that in 1958 when those calls were allegedly made to your phone number you didn't have your tavern licence at that time?

A. No, sir; I received my licence in October, 1959.

(Page 3405 follows)

De 1
G.S.

Q. And this phone, it is not a public phone is it? You remember this is your business phone, you said?

A. Yes, sir. We have --

Q. Where would it be located?

THE COMMISSIONER: He hasn't finished. 'We have' What?

A. We have two phones. It is the same number, but an extension in the kitchen, and one in the dining room.

MR. MacKINNON: Q. I see, so you can take it wherever you happen to be?

A. That is right, sir; and I might add, sir, if I may, in our business we receive numerous calls every day. We have calls for people inthe dining room.

Q. Is there a pay phone in the restaurant?

A. There is a pay phone at the front, sir, but often, to tell you the truth, we receive calls for people in the dining room.

Q. Well, you would have a pay phone in the restaurant in 1958, would you?

A. Yes, sir.

MR. MacKINNON: Thank you.

MR. WILSON: That is all. Oh, I am sorry, that is all, thank you.

--- The witness withdrew.

MR. WILSON: Lloyd D.C.Williams.

LLOYD C. WILLIAMS, Sworn

EXAMINED BY MR. WILSON:

Q. You reside in Fort Erie?

A. I do, sir.

Q. And you carry on business under the name of Williams Gold Refining Company of Canada Limited?

A. That is true.

Q. You are a manufacturer of alloys for the dental business, fishing baits, etc.?

A. That is true.

Q. And in 1958 you were a councillor in Fort Erie:

A. That is right.

Q. And you have been a councillor in the period, or were in the period 1955 to 1959 in Fort Erie?

A. That is true.

Q. And in 1958 what was your telephone number?

A. My house number?

Q. Well, give us both.

A. My house number was 557.

Q. Now ---

THE COMMISSIONER: Another one?

A. Well, the company?

MR. WILSON: Yes.

A. Well, 137.

Q. 137. Now, do you know anything

about the Frontier Veterans Club?

A. Just that I have heard of it existing in Bertie Township is all.

Q. And did you learn or hear about a speech given by Mr. Wintermeyer on November 29th ---

A. Yes.

Q. -- 1961?

A. I certainly did.

Q. And how did you hear about it?

A. Well, I happened to get the Globe and Mail, and I read it quite frequently, and naturally I read the whole article, and found my name listed therein.

Q. And I see at page 104 of Exhibit 3, there is the suggestion that there was a call to Lloyd -- Fort Erie 5-57, Lloyd Williams, Fort Erie Councillor. You would be the person ---

A. I imagine.

Q. -- named in that speech?

A. -- I was.

Q. And the suggestion in the speech is that it was a telephone call made by one Feeley?

THE COMMISSIONER: What exhibit are you referring to?

MR. WILSON: Exhibit 3, Mr. Commissioner.

THE COMMISSIONER: Oh, the speech.

MR. WILSON: The speech.

THE COMMISSIONER: Yes.

MR. WILSON: At page 104, the first column, the sixth paragraph, and you will see, halfway down the page that as a result of Mr. Shrubb's inquiries he found that in May and June of 1958 that calls were made from the Port Credit number, Crescent 8-2538 to the following numbers.

THE COMMISSIONER: Yes.

MR. WILSON: And then he lists a lot of numbers, and then we drop down to the last paragraph on that page, or the last full paragraph, and we find this witness' number.

THE COMMISSIONER: Yes.

MR. WILSON: Now ---

A. That number, I have not seen the evidence, that is the speech. What number is that? 5-57?

MR. WILSON: 5-57.

A. That is my house number.

Q. And the name is Lloyd Williams?

A. That is right.

Q. And that is yourself. Now, do you know either Vincent Feeley or Joseph McDermott?

A. I don't know anything about them. I never seen or never heard of them.

Q. And did you ever have any communication with them?

A. Never had communication to my knowledge.

Q. No, and has anybody else, around that time, communicated with you from Port Credit to your knowledge?

A. None to my knowledge, no, sir. Up to the present time there has been much said. I haven't seen the evidence, or anything else. Is there any particular date that has been given for this call?

Q. Well, the date on the call has not been given. There are two calls.

A. Two calls?

Q. Two calls.

A. There has been no dates given?

Q. No dates given.

A. I would like to have it understood, then, sir, that I do a great deal of travelling. If there was a date for it I would be in a better position to tell you where I was, whether a telephone call was received or not.

Q. It was in the month of May, 1958.

A. Well, that is a busy month. I am away a great deal.

MR. MacKINNON: I am sure Corporal -- at least Chief Shrubb could give us that. He had it here this afternoon.

MR. WILSON: And has any -- do you know of any person in your home that would have received a call, or did receive a call from ---

A. Not to my knowledge. It would only be my wife and my two children.

Q. Yes. I think that is all. That is all, thank you.

THE COMMISSIONER: Any questions?

EXAMINED BY MR. MacKINNON:

Q. I notice that one of the calls is marked gold refinery Canada. Does that mean you did have gold on the premises?

A. Well, I would say I did.

Q. Well, this is what I would like to find out.

A. We manufacture precious metal for dentistry.

Q. I see. Do you ever sell gold otherwise?

A. To industry, yes.

Q. Do you sell it to individuals who may come and want some?

A. If you wanted gold, and I had gold, I would be quite within the law to sell you all you want. You can hold, export, or anything you want with gold now. Up to a few years ago you couldn't.

Q. And you sell unrefined gold too, I take it?

A. You can sell any kind of gold today.

Q. Well, do you know if you did sell, or do you sell any unrefined gold from time to time?

A. Well, let's get a definition of unrefined gold. Any alloy would be unrefined gold. We sell alloys.

Q. Well, isn't that after treatment --

A. What is that?

Q. -- by your company?

A. Well, I mean when you make an alloy you would adulterate it by putting in other metals.

Q. Well, does gold come to you refined?

A. Well, we get scrap gold, and we also get pure gold from the Royal Canadian Mint, up to a few years ago, and then the Dominion Government changed their procedure, and it now comes from Noranda Mines.

Q. The Noranda Mine gold, would that be -- would it have received any treatment at the mine before you got it?

A. Not at Noranda Mines; it would be treated at the Ontario Refinery, that does the refining for them.

Q. And that is before you get it?

A. That is before we get it. We get fine gold, or 9985 fine, is about as pure as you can get it.

Q. Well, do you have it you did not?

or do you not may unrefined gold from them to

Dupe?

A. Well, both get a definition of unrefined gold. Any alloy would be unrefined gold. We sell alloys.

Q. Well, don't that affect transa-

ction --

A. that is true

Q -- is your testony

A. well, I mean when you ends on alloy you would manufacture it by putting in other metals.

Q Well, does gold mean in pu-

rified

A. Well, we get scrap gold, and we also get pure gold from the Royal Canadian Mint, it be a ber years ago, and then the precious Government changed their provisions, and it now comes from Kenacin mines.

Q The question that still would that be -- would it have remained one hundred

as the rules before you got it?

A. Not as accurate manner it would be treated at the Canada Refinery, like they the refining for them.

Q And then it before you got it

that from gold, or Bird Mine, is about as pure as you can get it.

And that is the way we start to make this.

Q. What I am wondering about really is, maybe you can't help me on this. Now, would the gold you have be such that if it were used by the purchaser it could be used to salt a mine? You know what salting a mine is?

A. Well, I have heard of it, but I have never....

(page 3412 follows)

Q. What type of mine could you call?

A. It would be a placer mine, any one that is in hard ore.

Q. Well, a placer mine?

A. Yes.

Q. You could, with the type of gold you had?

A. Yes, you could shoot it with a shotgun into gravel, and then it would be salted.

Q. Now, do you know David Humphrey?

A. I do not.

Q. You have never spoken to him on the telephone?

A. No, I have not.

Q. And you stated that you did know about the Frontier Club. It was in your district, was it?

A. It was in Bertie Township, not in the Town of Fort Erie.

Q. Well, are you -- where do you live? In Fort Erie itself?

A. I live in Fort Erie.

Q. And you were Councillor in Fort Erie?

A. That is correct.

Q. Now, if these phone bills were made, as apparently they were, by a Mr.Jolley, do you know him?

A. I certainly do.

Q. Is he a close friend of yours?

A. No, I have known him from my association with a Kinsmen Club, in my earlier days, and as a member of the Parliament naturally.

Q. A member of the Legislature, you mean?

A. Yes, a member of the Legislature. I know him.

Q. Well, now, this would mean, I take it, if he called you, it would be long distance phone calls?

A. From Niagara Falls, yes.

Q. Have you any idea what he might be calling you about in 1956?

A. Well, there were many things he might have called me about. I saw him three or four times to help on our highways.

Q. Was this in the spring of 1956?

A. No, I can't tell you whether it was in the spring of 1956, but I make it I have my records I could tell you, but at the moment I can't. It was No. 3 highway that we were trying to get the Dominion Government to help us.

Q. The Dominion, or Provincial?

A. Provincial, I should say.

Q. And he never discussed any gambling establishments with you on any of these trips?

A. Never. Never.

Q. Or any telephone call?

A. No, never.

MR. MacKINNON: Thank you.

MR. WILSON: That is all, thank you.

Call Mr. Fred House.

THE COMMISSIONER: That is all, Mr. Williams.

THE WITNESS: My lord, there is one question that I have only sat in here a few minutes, and for the record I think it should be straight is that I have heard Fort Erie mentioned many, many times with this particular gambling institution, or supposed institution, and as it has been brought out, but it is not in Fort Erie, and I think it is my duty as Councillor for Fort Erie to stress that point, because there has been the inference that due to the fact that it is in Fort Erie it does put the town itself in a bad light, and it also makes the police department look as if they are not doing a job. Our police Commission, and after all I think we do have the finest police force -- finest Police Commission there is in Canada, and I am certainly proud to live in Fort Erie, and I think we should uphold it, and that we should have the record straight that it is not in Fort Erie this gambling was conducted.

--- The witness withdrew.

FRED HOUSE, Sworn

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. In Bertie Township.

Q. And were you the Reeve of Bertie Township for some years?

A. Four years.

Q. What period was that?

A. '57 to '60.

Q. And what was your telephone number in 1956?

A. 551J12.

Q. That would be Ridgeway 551J12?

A. Yes, sir. Yes, sir.

Q. Do you know Vincent Feeley?

A. No, sir.

Q. Do you know Joseph McDermott?

A. No, sir.

Q. Have you ever talked to either of them, to your knowledge?

A. Not to my knowledge.

Q. And have you any knowledge of the -- what was the Frontier Veterans' Association Club?

A. I know about it, sir.

Q. Yes, and have you ever been in it?

A. No, sir.

Q. And were you a member of the Police Commission in the Township of Bertie?

A. Yes, sir, four years.

Q. And I think that was established for the first time in January of 1950 ---

A. '7.

Q. 1957?

A. I think.

Q. I think it was February '58.

A. '58.

Q. Yes, and in the course of your duties as a member of that Commission, did you have any representations made before you in respect to the Frontier Club?

A. Yes, sir.

Q. By whom?

A. Mr. Humphrey, I believe.

Q. A Mr. Humphrey?

A. I think his name was Mr.Humphrey.

Q. And where was he from?

A. I believe from Toronto, I am not sure.

Q. And who was Mr. Humphrey representing?

A. The Frontier Veterans' Club of Fort Erie.

Q. And do you recall approximately when those appearances of Mr. Humphrey took place?

A. Well, I couldn't tell you now, sir, exactly. It would be --

THE COMMISSIONER: Well, he has not said how the representations were made. How were they

made?

A. Mr. Humphrey appeared to the Commission, my lord.

MR. WILSON: Q. And who were the other members of the Commission at that time?

A. Magistrate Roberts and his Honour Judge Griffiths.

Q. And what was the nature of the representation that Mr. Humphrey made?

A. Well, he said they had a charter from the government and he didn't think that it was right to be raided so often, and he thought that they had this charter and they shouldn't have been raided as often as they were, and from that meeting, after he left the meeting, one of our Police Commission members was going to Toronto, and he said he would stop in and see the Attorney General's office, and at the next meeting he reported back, and he said that he saw the Attorney General, and he said it would be absolutely up to the Police Commission.

MR. WILSON: To deal with the matter?

A. To deal with the matter.

Q. And that ---

THE COMMISSIONER: Who was the member who spoke to the Attorney General's Department?

A. I think it was Judge Griffiths, your lordship;

MR. WILSON: Who, if anybody, was with

Mr. Humphrey when he made these representations to the Commission?

A. I don't know, sir, if he was alone or not. I couldn't say.

Q. And did you -- did the speech Mr. Wintermeyer made in November 29th, 1961, come to your attention?

A. It certainly did.

Q. And did you find any reference in it to yourself?

A. I heard on the radio my name was mentioned, and my telephone number.

Q. And when I look at Exhibit 3, on page 104, there is reference to a telephone call from a number used by Vincent Feeley to Ridgeway 38 5113/12, Fred House, the then Reeve of Bertie Township. Now, did you in fact receive any telephone calls from Vincent Feeley?

A. I did not, not to my knowledge. I may have, but not to my knowledge. Any time I had a call it was always that it was the Frontier Veterans Club calling, and there was no mention who was calling.

THE COMMISSIONER: Just a moment. Yes?

MR. WILSON: Q. Did you have calls from the Frontier Veterans Club?

A. I had several.

Q. And what was the nature of the calls?

A. Well, it was the same one, the same

thing every time, they wanted us not to raid the place that often. It was hurting their business, I guess you would call it, or their patronage.

Q. And were you ever approached by anyone to discuss the club?

A. Only once - twice. Once or twice.

Q. And was that after you had taken over the policing?

A. That is correct, sir.

Q. Your Township had taken over the --

A. That is correct, sir.

Q. -- policing of the area?

A. Correct, sir.

Q. And who approached you?

A. A man by the name of Scrip.

Q. What was his last name?

A. I found out after it was Scrip Mitchell.

Q. Yes, and what did he have to say to you?

A. Well, he was on the same area as the telephone calls I had, that he didn't think it was right, that they had a charter, that we were raiding the place so often.

Q. And did he mention as to how - what should be done?

A. All he suggested, the Chief should not raid the place as often as he had been raiding it.

Q. Now --

THE COMMISSIONER: How often did he approach you?

A. Oh, I would say probably three times, your lordship. There were two or three times.

THE COMMISSIONER: Anybody else approach you?

A. No, sir, your lordship.

MR. WILSON: Q. Now, if, based on other evidence we have heard here, Mr.Wintermeyer was wrong in his statement that there were calls from Feeley's number, or the number he used, to your number, and that rather they were calls from A.C. Jolley to your number, would there be anything unusual about Mr.Jolley calling you?

A. No, sir. I never recollect him calling me.

Q. You don't recollect Mr. Jolley calling you?

A. Not to my knowledge, no.

Q. You know Mr. Jolley?

A. Yes,sir.

Q. But you have no recollection of him having called you?

A. No, sir, I don't.

Q. In 1958?

A. He may have called me on one matter. We made an appointment with the Water

Resources Commission in Toronto, and I called Mr. Jolley to make the appointment.

Q. Yes.

A. With the Ontario Water Resources Commission, and he may have called me back to confirm the appointment. Now, I don't remember.

Q. That is the only telephone call that you recall, or calls that you can recall, as far as Mr. Jolley is concerned?

A. Yes, sir.

MR. WILSON: I think that is all.

THE COMMISIONER: Questions? What kind of business are you in, Mr. ---

A. I am a farmer.

THE COMMISSIONER: Thank you.

EXAMINED BY MR. MacKINNON:

Q. Are you able to tell us when you came down to see the Water Resources Commission?

A. I couldn't tell you now. No, I couldn't.

Q. Well, what year? Presumably they would have those records in the Ontario Water Resources Commission to check.

A. I imagine so.

Q. It was official?

A. It was official business. We put in a new pump house at Rose Hill.

Q. And when did that pump house go in?

A. Well, it was finished last year.

Q. And if we found that this appointment was in 1959, then it would not explain the phone call from Jolley in May of 1958, is that correct?

A. No, it wouldn't.

Q. But this is at the present, and I can understand your position, this is the only thing you can think of with Jolley?

D/3 A. That is the only thing I can think of.

Q. That Jolley may have been calling you about. Now, are you quite sure Mr. Jolley never called you about this gambling establishment?

A. Yes, sir, I am very sure.

Q. You are quite sure he never spoke to you about it?

A. He never spoke to me about it.

Q. At any time?

A. At any time.

Q. You know him quite well?

A. I know him quite well, yes.

Q. Was he your representative in this riding at the time?

A. That is right.

Q. Is that right?

A. That is correct.

Q. Now, you mentioned that Scrip Mitchell spoke to you three times. Now, where was this? How were these meetings arranged? Where did he meet you?

A. There were no arrangements made at all. He came up to my place.

Q. Up to your home?

A. Up to my home, that is right.

Q. What did he say? Sit down in your front parlour?

A. He came in the house and told me ---

Q. There was a discussion?

A. Told me who he was. I never saw the man before.

Q. You didn't know who he was?

A. Never saw him before in my life.

Q. When would this be?

A. I think it was in the evening.

Q. And in the winter time?

A. Twice in the winter time, I know that, because he broke my mail box one time.

THE COMMISSIONER: He what?

A. He got stuck in the road and broke my mail box off. It was in the winter time when the road was bad.

Q. And you think this was in the winter time of January, February, 1958?

A. I would say in the winter.

Q. Now, your answer was it was in the

winter, but it was after Bertie Township took over their own -- established their own police force?

A. That is correct.

Q. And how did he open the conversation? Did he say what connection he had with the Frontier Club?

A. No, sir, he didn't.

Q. Did you ask him?

A. I asked him.

Q. And what did he say?

A. He said he was a member there, or had some interest in the club. He didn't say what interest.

Q. Did he tell you what they were doing there?

A. No, sir, he didn't.

Q. Did you tell him you knew what they were doing there?

A. I didn't. He invited me down to the club, and I never went down.

Q. You have never been in those premises under that name, or some other name?

A. Never in my life.

Q. What I am wondering about, you said you had at least three meetings with him.

A. I would say it was three.

Q. Yes. Well, just what was discussed?

A. The same thing every time. He wanted us to ease the pressure off of raiding the

place down there.

Q. And wouldn't you have asked him why?

A. I did ask him why.

Q. Why?

A. He said that people weren't coming over to the club.

Q. And did you tell him that is our intention?

A. I said that is up to the Police Commission.

Q. You were a member of the Police Commission?

A. That is right.

Q. Did he ever offer you any money?

A. No,sir.

Q. Anything else?

A. No, sir.

Q. What was he suggesting you do then?

A. Just ease the pressure off the club, not so many raids.

Q. How were you to do that?

A. I don't know.

Q. How did he suggest you were to do it?

A. Because he thought because I was Chairman of the Commission I was going - I don't know whether you call it pull, or what, to ease the pressure off, the Commmion to ease the raids.

Q. To tell the Police Chief to let off for awhile?

A. That is right.

Q. Now, how did Mr. Humphrey get his appointment? Did he call to see you and ask to go before the Commission?

A. No, sir. He phoned our Township Clerk, and wanted to know when the Police Commmion meeting was.

Q. And explained to the Township Clerk why he wanted to appear, is that correct?

A. I imagine so, I don't know.

Q. You knew he was going to be there?

A. The Clerk told me. The Clerk told me he was going to be there.

Q. And after his appearance, and apart from Scrip Mitchell, did anyone else speak to you about this club?

A. No, sir.

Q. Or taking the pressure off of it?

A. No, sir.

Q. Now, did Scrip Mitchell speak to you after Humphrey had appeared at this Police Commission?

A. No, it was before.

Q. You are positive it was before?

A. I am positive it was before.

Q. He didn't appear again?

A. No.

Q. Afterwards?

A. No, that is right.

Q. And then you stated you had phone calls just from the Frontier Vets Club itself?

A. That is right.

Q. A number of -- you said you had several calls?

A. I had several calls, that is right.

Q. Were these while police were on the premises, were they calling you in the evening, or in the daytime, or when?

A. It was different times. I don't know if the police were on the premises or not. I couldn't tell you that.

Q. And they never identified themselves in any other way? The Frontier Veterans Club, that is all they ever said, and whether it was Feeley, or Joseph McDermott, or someone else, you don't know?

A. That is correct.

Q. And what was your answer to these phone calls? Call the Police Commission or ---

A. Absolutely.

Q. Well, whom would they call there? You were Chairman of the Police Commission.

A. I said come and appear before the Board. If they thought they wasn't used right, to come and appear, which they did.

Q. And did you continue to have calls after Humphrey appeared before the Board?

A. I don't think so. I am not positive.

I don't think so.

Q. Now, just where is Bertie Township, with reference to Fort Erie?

A. Well, they join.

Q. They join?

A. That is right. But it, this club, is situated right on the -- not on the town line, half a mile from the town line.

Q. I see, and can you tell me where Willoughby Township is, so I can ---

A. That joins Bertie Township to the north.

Q. I see. Does it have its own police force?

A. No, Provincials.

Q. Did you ever hear there was some suggestion that these people, who were operating the Frontier Vets Club, after your police force got after them, were desirous of moving into Willoughby Township and were looking for a place there?

A. No, sir, I didn't.

Q. You were not advised of that, if that was so?

A. No, sir.

MR. MacKINNON: Thank you.

THE COMMISSIONER: Is that all, Mr. ---

THE WITNESS: Your lordship, I have a letter from Mr. Winterneyer. Would it be permitted to read that?

THE COMMISSIONER: Well, I don't know. Let me see it, see if it is pertinent. (Reads letter) Oh, I think so.

THE WITNESS: My daughter wrote him a letter, that is why she received this.

THE COMMISSIONER: All right.

THE WITNESS: (Reading):

"Dear Miss House:

" I have read with a considerable "sense of sorrow your letter of December "4th concerning the effect which my "speech in the Legislature on "organized crime has had on you and "your family.

" I do appreciate your "acknowledgment that my reference to "a telephone call was true.

" I want to bring to your "attention as well the fact that I "said in my speech, and as reported "on page 29 of Hansard:

" 'I am also aware that much "of the material is sensitive in "nature. However, I want to emphasize, "Mr. Speaker, that I have made no "charges of culpable wrongdoing "against any person. I have not "made and I do not make any judgment "about the legal or moral guilt of "any man. What I have done is

"to present in this House a
"number of facts which I am convinced
"demonstrates that organized crime
"exists in Ontario and requires
"investigation.'"

MR. WILSON: Now, would you go a little slower. The Reporter ---

A. Oh, I am sorry.

MR. WILSON: Mr. Reporter is a few lines behind you.

A. I am sorry.

THE COMMISSIONER: Just slow up, Mr. House.

A. Thank you, your lordship.

THE COMMISSIONER: Yes.

MR. WILSON: All right.

THE WITNESS: All right.

"'I believe that the only satisfactory
"investigation can be that of a Royal
"Commission.'

" I have inquired from George
"Suinter and know that your father
"is an honest and upright man."

If that is not pouring oil on troubled waters, I don't know what is.

THE COMMISSION: All right, start the letter. Read the letter.

THE WITNESS: Thank you, your lordship.

" The information which I reported
"to the Legislature in this particular

"connection was -- "

THE COMMISSIONER: Slow up.

THE WITNESS: Sorry.

" -- was contained in an official "police diary. Part of the "information in that diary had been "used in the trial and parts had been "excluded. In making a quotation to "demonstrate a certain pattern of "telephone calls I quoted directly from "the policeman's diary, and I felt in "using that particular quotation, I "had to include all the quotation "and not just part of it. It was my "intention - it is my intention, and "I have so stated, that I was making "no judgments with respect to that "particular matter but that I felt "that a Royal Commission was required "to investigate the validity of what "had been recorded by the police officer. "I feel that a Royal Commission is "the only satisfactory way of con- "ducting such an investigation and "I am confident that an independent "Royal Commission will vindicate "the innocent and will bring the guilty "to justice.

"It is very difficult to make a "speech about any matter as serious

"and as complicated as the existence
"of organized crime and not run the
"risk of injuring innocent people.
"I can assure you that I, myself,
"was very troubled in doing so. I
"feel, however, that the matter
"itself is so serious and so urgent,
"that it was necessary to speak as
"I did if the general welfare of
"the people of Ontario is to be
"guarded.

" I appreciate the fact that you
"have acknowledged that I accused
"your father of no wrong. I am
"most unhappy that many people have
"misconstrued and misinterpreted,
"either deliberately or accidentally,
"the comments which I made and that it
"is this misinterpretation that is
"causing you distress.

" Yours sincerely,

" (signed) 'John Hintermeyer'".

I received that after my daughter wrote him a letter of two pages.

MR. WILSON: Well, maybe the reporter will want to check that letter just to be sure he has got it right.

THE COMMISSIONER: Well, the witness can let the reporter check that. The reporter may not have everything you said.

THE WITNESS: Thank you, your lordship.

THE COMMISSIONER: So that he may make supplementary notes.

MR. WILSON: I will call Mr. A.C. ---

THE COMMISSIONER: That is all, thank you.

THE WITNESS: Thank you, your lordship.

---The witness withdrew.

MR. WILSON: A. C. Jolley.

THE COMMISSIONER: Well, Mr. Jolley is over here from the Peninsula. I suppose he wants to get away?

MR. WILSON: Yes. He will take a little while. I have two witnesses here.

THE COMMISSIONER: I would like to accommodate them if we can do so. However, I want five minutes adjournment.

MR. WILSON: Well, I think it would be no great hardship on them to come back tomorrow. It is almost five o'clock.

THE COMMISSIONER: I don't mind sitting a little late to accommodate them, but if we are going to do so, we will have a short adjournment now.

MR. BREWIN: I think Mr. Jolley might be a little longer than these other witnesses.

MR. WILSON: Yes, I feel we better adjourn, Mr. Commissioner, rather than rush them.

---Whereupon the hearing adjourned at 5:00 o'clock p.m., until Thursday, April 26th, 1962, at 10:00 o'clock a.m.

MR. WILSON: Yes, I feel we better

adjourn, Mr. Commissioner, rather than read them.

---Whereupon the hearing adjourned at 5:00 o'clock p.m., until Thursday, April 26th, 1962, at 10:00 o'clock a.m.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

TRANSCRIPT OF ARGUMENT ON APPEAL

Date

Pages

Supreme Court Reporters
145 Yonge Street
TORONTO

17

Crime Commission -

Thurs. April 26/62

pp 3435-3651

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'1/O'N

THURSDAY, APRIL 26, 1962

---Upon resuming at 10:10 a.m.

MR. WILSON: I will call A. C. Jolley.

ARTHUR JOLLEY, sworn

MR. WILSON: I think, Mr. Commissioner, we should ask any witnesses we subpoenaed to withdraw, if there are any in the Court.

THE COMMISSIONER: Yes. Any witnesses in the Court, will you ask them to leave.

MR. MacKINNON: The officer has already asked them.

MR. WILSON: Fine.

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. Welland, Ontario, sir.

Q. What is your present position?

A. Registrar of Deeds for the County of Welland.

Q. And I understand you were a former member of the Legislature in the Niagara Falls riding, Welland County, from 1953 to 1959.

A. That is correct, sir.

Q. Now, do you know Vincent Feeley?

A. No sir, I have never met Vincent Feeley in my life.

Q. Have you ever talked to him, to your knowledge?

A. No sir, neither in person or on the telephone.

Q. Do you know Joseph McDermott?

A. Yes sir.

Q. Under what circumstances did you meet him?

A. Well, I apparently met him in 1957. I don't recall the meeting, but in 1958 he called me and asked me could he see me, which I said, "Certainly", so I met him and he explained to me that he had a club in Bertie Township, referred to as Fort Erie.

THE COMMISSIONER: Don't go too quickly please.

A. I am sorry, my lord.

Q. Where did he meet you?

A. Well, he met me -- I couldn't say the Royal York or the Parliament buildings now, I can't be too sure.

Q. He met you in Toronto?

A. In Toronto, yes, my lord.

Q. And what did he say?

A. He explained to me that he had a club at Fort Erie and that it was under a charter.

Q. Just a moment. Yes?

A. And that he was being, well, to use an expression, raided, and he felt it was not in order. The members were being embarrassed and it came under the jurisdiction of the Bertie Police Force and he asked me did I know the Chief of Police there.

THE COMMISSIONER: Just a moment.

MR. WILSON: Q. Now, was this club the Frontier Veteran's Association in Bertie Township, in your riding?

A. Yes, it was, sir.

THE COMMISSIONER: Q. Well, he identified it, I suppose, as the Frontier Club, did he?

A. I didn't recall, sir, he even mentioned the name. He said "a club". He may have identified it.

MR. WILSON: Q. At that time did you have knowledge of a club in Bertie Township?

A. I heard rumours of clubs. I never had any complaints of clubs. There could have been clubs. I don't know anything about clubs, sir.

Q. Had you ever attended any clubs in Bertie Township?

A. No, I never attended any clubs, period.

THE COMMISSIONER: Q. He asked if you knew the Chief?

A. Yes sir, and I said I knew him very well, he was a personal friend of mine, it so happened. I had built his first home in Niagara Falls when I got out of the Air Force. My family were in the construction business. He said:

"Do you think you could get an appointment for me? I would like to talk to him."

And I said:

"I will call him and try."

Q. Just a moment.

A. Yes sir.

MR. WILSON: Q. Now, this meeting that you speak of at either the Royal York or the Parliament buildings, had it been arranged prior to that time by a telephone call?

A. Yes. When he called me, I told him to meet me. I would be in Toronto. He called me at my home.

Q. At that time where was it?

A. In Niagara Falls, Stamford actually, but Niagara Falls.

Q. What was your telephone number at that time?

A. 45071, ELgin.

Q. ELgin?

A. 45071.

Q. Yes. And at that time, prior to your actual meeting with him, had he called you more than once?

A. No sir, that is the only call I ever got from him.

Q. And then you just go on with your story as to what took place between you.

A. All right. So I called Howard, Chief Johnson at Ridgeway and he said:

"Sure, Art, I will give him an appointment, send him over."

The time and the date I can't give you, sir.

Q. What is your best recollection of the time, the year, first of all?

A. Well, it would be '58.

Q. And the time of the year?

A. Would be early, May, June, April.

Q. Now, would it be during the sitting of the Legislature?

A. Well, now, that I am not too sure of. You see, sir, in the first instance it was just a phone call and I had thousands of them over a period of years. I think it might have been during the Session, which would have been then May, April. I was over to Toronto a lot during my term of office with people and I wasn't too busy, and I could get away. I just can't recall if I was coming over on some other business and I would meet him there or whether it was during the Session.

THE COMMISSIONER: Q. The spring of 1958, would you say?

A. It would be the spring of 1958, my lord, yes.

MR. WILSON: Q. Was Mr. McDermott present when you called Chief Johnson?

A. Yes he was, sir.

Q. And then what knowledge did you have of what took place between McDermott and Johnson after that.

A. Frankly, sir, I have no knowledge

of the meeting. I met Howard -- Chief Johnson on several occasions and asked him how things were going at Ridgeway and Fort Erie and so on and he said:

"We are closing up the club".

But what transpired between them, I don't know.

Q. Now, did McDermott tell you whether or not he would go to this meeting with Chief Constable Johnson or send somebody else?

A. Yes, he said he might go himself or he might send a lawyer.

Q. Have you any recollection as to whether Chief Constable Johnson ever later mentioned a meeting?

A. No, I haven't, sir.

Q. Now, did you ever have any further calls from Joseph McDermott?

A. No, no, I never.

Q. Up to that time?

A. No, I never did, sir.

Q. Have you ever met him, or did you ever meet him subsequently?

A. No, no, I didn't.

Q. Do you know a lawyer by the name of David Humphrey?

A. I wouldn't know him to identify if he walked in here now, but I met him once on a social occasion, if we can call it that. I was over with the present Deputy Crown Attorney for Welland County, Donald Scott, to have him

appointed, and we went down to the King Edward Hotel after and ran into Humphrey. I was introduced to him as a friend of Scott who had gone through law school with him. That is the only recollection I recall meeting Humphrey.

Q. Do you recall what year that was?

A. I would think Scott was appointed around 1957 or 1958. I couldn't tell you for sure, sir.

Q. Well, maybe I could help you on the point.

THE COMMISSIONER: Q. What is Mr. Scott's first name?

A. Donald. D. H. Scott.

MR. WILSON: Q. If I told you he was appointed on January 1st, 1957, does that help you?

A. Yes, that would be all right, sir, yes. I said '57 -- I just couldn't recall.

Q. You know a man by the name of Felix Borelli, in Niagara Falls?

A. Yes, I know him well, I went to school with him.

Q. Do you know the two Iannuzzelli's or whatever you call them?

A. Yes, the Iannuzzelli brothers, yes, I know them very well.

Q. In what way did you know them?

A. Well, they are in business in Niagara Falls and have quite an interest in the

Fallsway Hotel. I was with the Government and they opened a big thunderbird ---

THE COMMISSIONER: Q. Who is Iannuzzelli?

A. Iannuzzelli. You are referring to them as Iannuzzelli's.

Q. Not Borelli?

A. No, not Borelli. The Iannuzzelli's.

MR. WILSON: Q. Have you any knowledge of the Ramsey Club in Niagara Falls?

A. Yes sir, I knew it existed.

Q. Have you ever been at the Ramsey Club during the period it operated?

A. No sir, never at any club.

Q. Did either Felix Borelli or the Iannuzzelli's ever approach you to discuss gambling operations in the Niagara Falls area?

A. No sir.

Q. Now, in this discussion you had with McDermott, leading up to the phone call to Johnson, did he make any offers to you or give you any inducement to ask you to do anything about the problem?

A. No sir.

Q. Of the club, as he thought, or at least, as he put it to you?

A. No sir. I had heard about this club for a number of years. I don't know anything about the club or how it operated or where it was. I couldn't even take you to it. He just asked for an appointment with the Chief.

Q. There has been an Exhibit filed here, Exhibit number 121, and under date of May 19th, 1958, there is a call, a person-to-person call recorded from Port Credit, CRescent 82538to Niagara Falls Elgin 45071, to a person by the name of Jolley. Now, do you recall in May of 1958 receiving any call from that Port Credit number?

A. Well, that could have been the date that McDermott called me. I am not sure, sir.

Q. Can you recall how long he talked to you on the phone?

A. Oh, no sir. It shouldn't have been very long. He asked if he could see me in Toronto.

Q. The reason I ask you, this call on May 19th from that number, lasted five minutes.

A. I don't know, sir. Maybe I didn't get the call. It was person-to-person and if it was for me, I must have got it. I don't recall.

Q. Can you think of any other person who may have called you from Port Credit in May, 1958?

A. No sir, I can't. No particular person.

Q. Do you recall what time of the day Borelli -- or at least McDermott called you?

A. No I don't sir.

Q. Now in this Exhibit 121 there is a further call from Port Credit, CRescent 82538 on May 22nd, 1958, to Niagara Falls, ELgin 45071, a person-to-person call to Jolley.

A. Sir, I don't recall any other calls except the one that McDermott asked me could he see me in Toronto.

Q. Well, you say, as far as your recollection goes, that there was only one call.

A. That is right.

Q. As a result of that one call you had a meeting either at the Parliament buildings or the Royal York?

A. That is right, sir.

Q. Well then ---

A. Could I ask, sir? Was the phone call from the same number as the phone call Peeley was supposed to be from?

Q. That is right.

A. Yes.

THE COMMISSIONER: Q. Peeley?

A. Yes. I never talked to Peeley in my life. That is why I am trying to get things straight, my lord.

MR. WILSON: Q. Well, you have talked, as you said, to this person Joseph McDermott?

A. Oh yes, that is right, sir.

Q. And then in Exhibit 121 there is a further call recorded from Port Credit,

CRescent 82538 on June 5th, 1958 to Niagara Falls, Elgin 45071, which is, again, a person-to-person call to Arthur Jolley.

A. That is me, sir. I don't know what for.

Q. And that call lasted for five minutes?

A. I don't know, sir.

Q. So here we have -- you say there was only one call and here, in this Exhibit, we have three calls.

MR. MacKINNON: Four calls.

MR. WILSON: Q. I am sorry. There is one other I haven't mentioned. In Exhibit 121 thereis a further call recorded from CRescent 82538 on June 19th, 1958, to Niagara Falls, Elgin 45071 which is, again, a personal call to Jolley. You say that you did not receive any such call?

A. No sir, I don't recall any calls.

Q. Well, so while this Exhibit refers to four person-to-person calls to Jolley, at your number, from this CRescent 82538 at Port Credit, you say that there was only one call that you can recall that might be associated with any one of these four calls?

A. That is correct, sir.

Q. And is your memory of the events in 1958 clear today?

A. Well, I think they are, sir.

Q. Yes. And can you recall what day of the week, which you say you did get from McDermott, was made?

A. I can't say exactly, sir, but I would think it would be on the weekend regardless of whether the House was in session or not. I would think it would be Saturday or Sunday. Now, I don't know.

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MR. WILSON: Q. Well, in 1958, we might look at that, the first call, May 19th, was a Monday. The second call, May 22nd, was a Thursday. The third call, June 5th, was a Thursday. And the fourth call recorded on Exhibit 121, June 19th, was a Thursday. Now, the closest to the week-end, I guess, would be the Monday of those four calls?

A. That is easily possible, sir, yes.

THE COMMISSIONER: Q. And you say it was in the evening he called you, you think?

A. I would say it would be evening, my lord.

Q. Why do you say that?

A. Well, I would think that would be the time they would catch me home.

Q. The call on May 19th was at 11.00 o'clock in the morning.

A. May 19th, that is the Monday, is it?

Q. Yes.

A. Well, it is possible, sir. I just assumed it would be evening. I don't know, my lord.

MR. WILSON: Q. Now, who else uses the telephone at your residence at that time, that is in May and June of 1958?

A. Well, my wife and my two boys.

Q. And have you any knowledge of any communications they would be having from that Crescent number in Port Credit at that time?

A. No, I have no knowledge of any, sir.

Q. Now, following -- do you recall the raid on the Ramsay Club in August, 1958?

A. Yes, sir.

Q. Following that raid did you communicate with any official --

THE COMMISSIONER: Just a moment.

Q. How did you know about it? You say you recall it?

A. Well, it was my riding, sir. It was only three or four blocks from where I live, my office.

Q. What was the first knowledge you had of it?

A. You mean the raid, sir?

Q. Yes.

A. Well, I don't know the first knowledge I had of it, but it was public knowledge the next morning.

Q. How?

A. Well, my lord, I don't know just how. A small place like Niagara Falls these things get around pretty fast. I don't know just how.

MR. WILSON: Q. What business were you in at that time?

A. '58?

Q. Yes.

A. Well, my brother and I were trying to re-establish a construction company. We were getting some small work and so on, but weren't

doing very much of anything.

Q. Well now, after you heard about the Ramsay Club raid, what, if anything, did you do in the way of communicating with any official?

A. Nothing, sir. Pardon me, do you mean official of the club or official of the government?

Q. Official of the government.

A. Nothing, sir. Nothing either way, but I just wanted to clarify the point.

Q. You didn't talk to anybody in the Attorney General's Department?

A. No, sir, nothing.

Q. Did you have any knowledge following the raid on the Ramsay Club in August, 1958, that a search warrant had been executed at the office of Mr. Fleming, a lawyer in St. Catharines?

A. No, sir, I knew nothing about it.

Q. I think that is all we want.

MR. WILSON: That is all, thank you.

EXAMINED BY MR. MacKINNON:

Q. Mr. Jolley --

A. Yes, sir.

Q. Just to refresh your memory, I think my arithmetic is correct, the total time occupied

by these four phone calls, which were person to person to you, was some fifteen minutes?

A. Yes, sir.

Q. Somebody must have had something to talk to you about from this number. Now, do you still insist that McDermott only telephoned you once?

A. That is all I recall, sir.

Q. Could it have been more?

A. I wouldn't think so, no.

Q. Isn't it a fact, Mr. Jolley, that you spoke to Mr. Bowman about this club -- now think carefully -- of the Attorney General's Department?

A. About the club; now, in what---

THE COMMISSIONER: Answer that question about the club, yes.

MR. MacKINNON: Q. Answer it any way you like to take.

A. Well, can I make a statement.

Q. You can make any statement you like, so long as it is the truth.

A. Now that you mention it, the only time I recall speaking to Mr. Bowman about the club --

THE COMMISSIONER: Q. Well, do you recall speaking to him about the club?

A. Yes, I do, sir, but it was after it had been raided, and a long time after.

MR. MacKINNON: Q. Which club are you talking about? The Frontier?

A. The Old Ramsey Club. Is that the club you are talking about?

Q. You can take whichever one you like first.

A. I am talking about the Ramsay Club. One of the fellows that was in the raid, an American fellow, called me and said he had had a sizeable amount of money taken from him, and the trial kept being laid over and laid over, and he called me one day -- am I going too fast, my lord?

THE COMMISSIONER: Q. Yes, you are. Some American fellow, do you say?

A. Yes, an American fellow.

Q. From where?

A. Niagara Falls, New York.

Q. He called you and what did he say?

A. That he had a sizeable amount of money taken, according to his evidence, and he wondered, since it was laid over so many times, when he could get it back. So, in answer to your question, not knowing where to go or start, and being in Toronto, I knew Bill Bowman very well as a personal friend of mine in the Government - I felt a friend of mine - I went and asked him, so he picked up the phone and called somebody, in fact I don't know who, and said that the money would be released at such and such a time. I don't even know frankly what he said. I took the message back to the man, called him, and that is the only reason I

recall talking to Mr. Bowman about the Ramsay Club.

MR. MacKINNON: Q. Let us leave the Ramsay Club then.

A. All right.

Q. Did you ever speak to Mr. Bowman about these gambling clubs, any gambling club apart from the Ramsay Club? Are you saying this is the only occasion you spoke to Mr. Bowman about a gambling club?

A. Well, you see, maybe I don't understand when you say to speak to him --

THE COMMISSIONER: Q. Witness.

A. I am sorry, my lord.

Q. The question is perfectly plain. Just repeat it.

A. All right then, maybe --

THE COMMISSIONER: We will have the stenographer, the Reporter, read it back. Read that question. We will see how simple it is.

THE REPORTER: "Q. Did you ever speak "to Mr. Bowman about these gambling "clubs, any gambling club apart from "the Ramsay Club? Are you saying "this is the only occasion you spoke "to Mr. Bowman about a gambling club?"

THE COMMISSIONER: Q. Now do you understand?

A. Oh, the question, I do, my lord.

Q. Now answer it.

A. I have discussed gambling clubs with Mr. Bowman. Does that answer your question, sir?

MR. MacKINNON: Q. That is a good start. Now, I would like to know on what occasions you discussed them, where you discussed them, and what clubs you discussed?

A. Well, I used to go and sit in Mr. Bowman's office, that is the only place I ever discussed anything with him was in his office. We never discussed anything any place else.

Q. Now, you had an interest in gambling clubs --

THE COMMISSIONER: Now, please, Mr. MacKinnon, I think you shut off the witness. He just paused to take a long breath when you interrupted.

THE WITNESS: I have sat in Mr. Bowman's office and, on occasion, said, "Well, I see they raided such and such a club", or something. I don't have any particular knowledge or interest in any gambling clubs. I have discussed many things with Mr. Bowman.

MR. MacKINNON: Q. But apparently you must have discussed gambling clubs with Mr. Bowman?

A. Well --

Q. Why would you be discussing gambling clubs with him?

A. We discussed everything depending what was on the agenda for the day. Like, I might discuss what happened yesterday here.

Q. Well, gambling clubs weren't particularly in the news?

A. They might have been at the time I discussed it with him.

Q. When was this? Did you discuss it in 1958?

A. I might have discussed it with him in '58, maybe, '57.

Q. Did you discuss Joseph McDermott approaching you?

A. No, sir.

Q. In '58?

A. No, sir, never. I had no reason to discuss Joseph McDermott approaching me.

Q. That would have given you a lead-in to discussing gambling clubs; he approached you about a gambling club?

A. That is right, sir.

Q. It would be on your mind?

A. I don't think Joseph McDermott's name was ever mentioned between me and Mr. Bowman in my life for any reason whatsoever.

Q. Did you make appointments to meet Mr. Bowman?

A. No, sir.

Q. You just walked in?

A. Yes, sir.

Q. And you would sit down?

A. I wouldn't necessarily say that I just walked in. I would be over in Toronto on some other business; if I was in the Parliament Buildings I might knock on the door and if he

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was in go in and talk to him for a few minutes for no particular reason.

Q. Did you ever mention the Cooksville Centre Road Veterans Club?

A. No, sir. I don't know anything about it.

THE COMMISSIONER: Pardon?

A. I don't know anything about that club.

MR. MacKINNON: Q. Can you tell me any more detail as to what you would be talking about in connection with these clubs?

A. It would only come up, I think, sir, on the occasion that in the morning paper there might have been a mention of a raiding of a certain club, and I would say to him , "I see they raided such and such a club. I don't think there was any discussion concerning any particular club, or for any particular reason.

Q. And you can't give us any particular time either as to these discussions?

A. It would be while I was in the Legislature. It would be somewhere in '56 to '58. I was out in the spring of '59.

Q. Do you know a Mr. Costello?

A. No, sir.

Q. So, in any event, it was not -- it would not be a Mr. Costello who was calling from this Port Credit number?

A. No, sir. I don't know who would be calling me. I never heard of his name.

Q. You stated that you had met D. Humphrey on a social occasion, and I took it down that you came over with Donald Scott to have him appointed. Did you play some part in having Donald Scott appointed?

A. Yes, sir. I was a Member of the Legislature, and after the recommendation from several people around the area that wanted -- that thought he would be suitable for the position, I came over with him and made the recommendation to the Attorney General.

Q. And he was then appointed as a result of your recommendation?

A. Well, I would think his merits would have something to do with it, but -- let me phrase it this way; he may have been appointed if I hadn't have recommended him.

Q. But in any event you came over and on that occasion you say it was the first occasion you met David Humphrey?

A. That is correct, yes.

Q. And do you say you never met him subsequently?

A. No, I have never met David Humphrey since.

Q. You never met him in Niagara Falls?

A. No, sir.

Q. In 1959?

A. No, sir.

Q. And you have never spoken to him on

the telephone?

A. No, sir.

Q. Now, I notice that you were discussing something or other with Mr. Rose this morning. Do you know him quite well?

A. Not quite well, no. I know Wally Rose, I haven't seen him for a long time. I have had one or two social visits with him some years ago, and I just saw him this morning and said, "Hello" to him.

Q. Did you meet him through Feeley or McDermott?

A. No, sir.

Q. Did he ever speak to you about these clubs?

A. No, sir.

Q. You stated you were appointed registrar of deeds for the County of Welland. When was this?

A. The actual appointment was for the 1st July, 1959, but it was a known fact in about half way through the Session that year, about March, that I wasn't going to take the nomination again to run for the Legislature. There was an election coming up in June, and that all things being equal I would take the registrar's position.

Q. Are you a lawyer?

A. No, sir.

Q. This was an appointment by the Attorney General for this Province, was it?

A. That is correct, sir.

Q. Well, I take it we might be able to localize this telephone call if Chief Johnston has a record of my interview with McDermott, is that correct?

A. That is correct, yes.

Q. And if it appears that this interview took place prior to May 19th, 1958, then you can give us no explanation for any one of the four phone calls?

A. No, I can't, sir.

Q. Now, did you ever speak to -- first of all, you are a close friend of Chief Constable Fay, are you not?

A. Yes, I have known Cec all my life, yes.

Q. Did you go to the race track with him?

A. I might have gone once with him. I very seldom go. I may have gone. I guess I did.

Q. Did you ever speak to him about these clubs?

A. Never.

Q. You discussed the clubs with Mr. Bowman, but you wouldn't discuss them with Chief Constable Fay?

A. Well, I wouldn't say I discussed the clubs with Mr. Bowman. They may have come up in conversation. I don't recall ever going directly to Mr. Bowman to discuss clubs.

Q. Well, you were having conversations with Chief Constable Fay, weren't you? You were

a close friend of his?

A. Well, Chief Pay was an officer on the Niagara Falls Police Force when I first got my driver's licence, and I have known him over the years, so we consider ourselves close friends. He is a member of two or three different church organizations with me, and considered to be a good Chief of Police around Niagara Falls, so we consider ourselves good friends, but I don't think I am thrown together with Chief Pay four times a year.

Q. And, so far as you can recall, on those occasions when you were thrown together with him, you didn't discuss gambling clubs?

A. Never discussed clubs with Chief Pay at all.

Q. And did you ever have occasion to assist any one in securing a liquor licence?

A. A liquor licence?

Q. Yes.

A. No, sir. No.

Q. No one?

A. No one.

Q. Never approached in that connection?

A. Oh, I didn't say that. I said I never had -- I may have been asked in the early years. I don't just recall. I don't have any recollection of ever anybody, getting anybody or assisting them in getting a liquor licence. I have assisted veterans' clubs and so on when

they have had trouble concerning renewing their beer licence, and so on, because they sold too much for their membership and so on, but to actually say to help anybody with their liquor licence, the answer is "No".

Q. How about the Canadian Merchant Navy Veterans Club? Did they ever approach you to assist them?

A. In a liquor licence?

Q. On anything, because they were veterans.

A. I am sorry, I never ever heard of the club.

Q. Then we will come to a more modern name, the Frontier Veterans Club?

A. No, sir. No.

Q. These veterans didn't come to you?

A. Nobody approached me.

Q. Did Scrip Mitchell ever speak to you about this club?

A. He never spoke to me about any club. I went to schoolwith him. I knew him quite well. I run into him on the street on occasion.

Q. We heard evidence he went to the local Reeve about the Frontier Club, but you say he never spoke to you about it?

A. That is correct, sir.

Q. I thought he knew you quite well?

A. Very well.

Q. Now, in 1958, when you say McDermott approached you, you, as the member in that area,

were quite familiar with the reputation of this club, weren't you?

A. No, I wasn't, sir.

Q. You weren't?

A. No. You are talking about the Frontier Club?

Q. That is right.

A. No, I was not. I can't play poker, I can't roll dice. I know nothing about gambling whatsoever.

Q. Apparently you read the papers quite closely about gaming houses?

A. Certainly. I read the paper about everything.

Q. And you knew, if you didn't know before, McDermott certainly told you that the police were raiding the club?

A. That is correct.

Q. Why were you wanting to assist him? He wasn't a constituent of yours?

A. That depends entirely on what you call "assisting him". If a man asks me if I can get him an appointment with the Chief of Police, and I do, from there he is on his own.

Q. Well, was he crippled? Could he not use the telephone himself?

A. I don't know that. He asked me if I could get him an appointment with the Chief of Police of Bertie Township because he felt he was being badgered, or being discriminated

against, and he said, "Certainly, send him over." Now, I haven't any proof he went.

Q. You didn't tell him, "Do your own dirty work. Make your own phone calls"?

A. No. He was paying taxes in the area, and I represented the area, so I made the phone call.

Q. And so far as you were concerned, this man was a complete stranger to you when he phoned you?

A. That is correct.

Q. And you are not sure whether it was the Royal York or somewhere else?

A. No, because I wasn't that concerned. I don't know whether he called me at the Royal York and told me he wanted to come down and see me, or what. I am sorry, my lord, I can't remember four years ago.

Q. Just a moment now, to follow your evidence ---

THE COMMISSIONER: Q. Did he tell you how frequently the club was being raided?

A. Well, he didn't say how frequently, my lord, he said it was being raided.

Q. Frequently?

A. Well, continually. Yes, frequently.

Q. Continually or frequently?

A. Well, frequently then, all right.

Q. Wouldn't that raise some suspicion in your mind?

A. Yes, it did, sir, but I saw no harm ---

Q. Did you pursue it then, as a result of that suspicion pursue the discussion with McDermott?

A. No. I called the Chief, and he said, "Send him over, I will talk to him." And what went on from there, I don't know. All I know is that shortly after the club was closed up.

MR. MacKINNON: Q. Well, apparently, as I remember your evidence, you had met McDermott before this phone call?

A. That is right, about a year before.

Q. Where had you met him? We haven't heard of that yet.

A. Well, when he called me — I don't recall the meeting at all -- but he told me that he had met me about a year before in the lobby at the Royal York. And he wasn't sure, and I am not sure - in fact, I couldn't recall the meeting - whether he was sitting with the late Jim Maloney and I came in from the Parliament Buildings, or whether I was sitting with Jim Maloney, who was a very good friend of mine, and he came past and he introduced us, and it was just another introduction, of which I got hundreds.

BB/3

Q. So far as your information is concerned then, it was Jim Maloney who introduced him to you?

A. That is correct, so far as I know from

what McDermott told me.

THE COMMISSIONER: Q. You were with Maloney in the Royal York Hotel?

A. My lord, I qualify that, I don't even recall the meeting. He says, McDermott says that he had met me in the Royal York and he wasn't sure whether I was with Maloney and he came through, or whether he was with Maloney and I came in from the Legislature. I don't recall the meeting whatsoever, but as soon as I saw McDermott and he came to see me, I recognized I had met him somewhere.

Q. Just a moment while I get this clear. You now recall that you had met McDermott?

A. I recognized him from meeting him somewhere, yes.

Q. That you had met him?

A. Yes.

Q. And do you recall that you had met him at the Royal York on an occasion when Mr. Maloney was present?

A. No, I don't recall that. I have only got to assume that is where McDermott said he met me, so he could have said the King Edward, any place. That is where he said he met me.

Q. I am not too concerned about the place, I am more concerned about the person.

A. That is where he said he met me.

and when he called, I just said, "Oh, yes".

MR. MacKINNON: Q. Did you stay at the Royal York during the Session?

A. Yes.

Q. And Jim Maloney did likewise, did he?

A. Yes, sir.

Q. And did you check this with Jim Maloney?

A. Check, sir?

Q. As to who McDermott was and whether he had been introduced to you?

A. No.

Q. By Maloney?

A. No, I didn't.

Q. Do you say that Maloney never spoke to you about this Frontier Veterans' Club?

A. That is quite true, sir.

Q. Did you have any discussions at all with him about clubs?

A. None whatsoever. None whatsoever.

Q. Did McDermott, when he came to see you, use James Maloney's name?

A. No. I don't think so. In fact, I am sure he didn't.

Q. Do you know --

THE COMMISSIONER: Just a moment.

THE WITNESS: Yes, sir?

THE COMMISSIONER: Read that last question, please.

THE REPORTER: "Q. Did McDermott, when

"he came to see you, use James Maloney's "name?"

THE COMMISSIONER: Q. When McDermott telephoned you, did he identify himself as the man that you had met with Jim Maloney?

A. Well, my lord, I can't quote him verbatim, but it was something to this effect, "We have met before. I met you about a year ago", or words to this effect, "at the Royal York through a mutual friend of ours, Jim Maloney." But when he came to see me he never mentioned Jim Maloney.

Q. He did when he telephoned?

A. Oh, yes, something to that effect. I just can't quote him verbatim.

MR. MacKINNON: Q. Well, did he mention then, if he didn't use Maloney's name, did he mention that he had --

THE COMMISSIONER: But he did use Maloney's name.

MR. MacKINNON: Yes, he did in the first instance, but I am talking about the personal interview you had with him.

THE WITNESS: No, never.

MR. MacKINNON: Q. Did he mention he had friends in the Legislature?

A. No, sir.

Q. Did you ever discuss Joseph McDermott or Vincent Peeley with James Maloney?

A. No.

Q. Did you have any telephone calls from James Maloney at this time?

A. Do you mean at my home or from room to room?

Q. Room to room -- or your home, first of all?

A. No, my home, no, never.

Q. And from room to room?

A. Oh, all the Members call each other for this, that and the other thing.

Q. But you say nothing to do with the gambling --

HIS LORDSHIP: Q. You mean room to room at the hotel where you were staying?

A. At the hotel, sure. You might phone and say, "Are you going to the hockey game?", or, "Do you want to come down for this, or that?"

MR. MacKINNON: Q. Nothing to do with the gambling institutions?

A. Nothing whatsoever, sir. Nothing.

Q. Did you ever, or did you have any discussion with Mr. McDermott at this time or any other time as to mining operations?

A. No, sir.

Q. Did you discuss any particular mines ever with Mr. Maloney?

A. No, sir.

Q. Do you know Louis Herman?

A. The name seems to ring a bell, but I couldn't say that I knew the gentleman. I may

have met him on an occasion. I couldn't say I know him. Maybe it is just from reading the paper I know his name.

Q. Is it through Mr. Herman you met Mr. Rose?

A. No. No, sir. I don't know Mr. Herman actually. The name just rings a bell, but maybe just from seeing it in the press, I don't know.

Q. When you called Chief Johnston and asked him to make an appointment with McDermott, did Johnston not tell you his opinion of this club and why they were raiding it?

A. No, sir, he just said, "Yes", I quote him almost verbatim, I don't know for sure, "O.K., Art, send him over, I will talk to him", and they set up an appointment. I don't know that.

Q. But he didn't comment at all on the raids, or why they were raiding this club?

A. No, sir.

(Page 3475 follows)

Q. And what is Johnson's first name?

A. Howard.

Q. Now, you stated that you had something to do with getting Mr. Scott as Assistant Crown Attorney, I gather.

A. That is correct, sir.

Q. Were you ever approached by anyone to see whether Mr. Scott could be the Crown Attorney in place of Mr. Forestall?

A. No, sir, never.

Q. Then you made no such application at any time?

A. No.

Q. And you were approached by no one?

A. No, that is correct.

Q. That is all, thank you.

A. Thank you.

THE COMMISSIONER: Any questions, Mr. Scott.

MR. SCOTT: No, sir.

THE COMMISSIONER: Mr. Wilson?

MR. WILSON: One or two.

EXAMINED BY MR. WILSON:

Q. Do you recall the name of the American that you say --

A. I am sorry, sir, I can't.

Q. Well, I am looking at Exhibit 100.

A. Yes.

Q. The man who apparently were well-

endowed with wealth at the time of the raid appear to be Anthony Phillipi of Niagara Falls, New York. Does that name help your memory at all?

A. Would you name some more, sir?

Q. Well, Frank Magliarditi?

A. It seemed like a long name.

Q. Well, what about Magliarditi?

A. Magliarditi, that could be.

Q. That could be. We had $1,593.

A. Well, that could be it, sir. It was just another phone call.

Q. Well, did you know this Magliarditi at all?

A. No, I didn't, sir.

Q. And why would you be concerned about getting his money back to him?

A. I wasn't, sir. We called me and asked me the first time I was in Toronto to find out anything about it, so I went to Mr. Bowman. Now, to tell you why I did it, I just did it for the man as a member of the Legislature.

Q. You think that part of it was as a member of the Legislature?

A. Yes, it is, and when he was going to get his money back, that is correct, sir.

Q. Now, you said you didn't know any Mr. Costello that might have been at the CRescent number?

A. No.

Q. In Port Credit, Did you ever know a Miss Costello?

A. No, sir.

Q. In Port Credit?

A. No, sir.

Q. And Mr. Rose has asked me to ask you this question: do you recall if it was Miss Judy Lamarsh that introduced you to Wally Rose?

A. Well, now, I believe maybe it was. I think, if my memory serves me correctly, that I -- we were in the Royal York one evening, and we ran into Mr. Rose downstairs in the -- in the lounge. Now, I could be wrong, but I think that is where it was. Maybe Mr. Rose recalls it. Miss Lamarsh was a very good friend of mine, believe me, personally, and as a lawyer, and solicitor for Stamford Township/ I saw her often in Toronto, and while we did not kick with the same foot politically, we were very good friends personally.

Q. Yes.

A. And she never hesitated to look me up when she was there, and we would go for a drink or lunch together, and I think that is possibly where I met Mr. Rose.

MR. WILSON: That is all, thank you.

A. Thank you. Is that all?

THE COMMISSIONER: That is all.

A. Thank you, my lord.

THE COMMISSIONER: -- Mr. Jolley.

--- The Witness withdrew.

MR. WILSON: Mr. Donald Scott

MR. DONALD HENDERSON SCOTT, sworn:

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. At 11 Strathcona Drive, Ponthill, Ontario.

Q. And you are the Assistant Crown Attorney for the County of Welland?

A. That is correct, sir.

Q. And when were you appointed to that position?

A. January the 1st, 1957.

Q. And at that time how long had you been in practice as a lawyer?

A. I had graduated, sir, in 1951. I spent two years with Mr. Charles Dubin in Toronto. Then I went in practice in the city of Niagara Falls, and in 1957 I was appointed Assistant Crown Attorney.

Q. Yes. Now, Mr. Jolley, the last witness, has told us that he was one who was --

MR. MacKINNON: I wonder if the Witness could not be asked questions, without being led?

THE COMMISSIONER: Oh, well --

MR. WILSON: Well, I take it that at the

THE COMMISSIONER: — Mr. Smith.

— By Counsel Wilcox.

time of your appointment you had some friends who put in a good word for you?

A. I understand, sir, that quite frankly at the time the Bar Association of Niagara Falls was asked, the two Magistrates sitting in the County were asked, and the two members of Parliament.

Q. Yes. Now, you have knowledge of a speech made by Mr. J. J. Wintermeyer in the Legislature on November 29th, 1961?

A. Yes, I do, sir.

Q. And at - in Exhibit 3, which is the copy of that speech, at page 102 there is this statement,about half way down the first column on page 102:

"There has been evidence that Don Scott,
"the Assistant Crown Attorney at
"Niagara Falls, was a pal of Feeley and
"McDermott, and that they --"

THE COMMISSIONER: Wait a moment. Page 102?

MR. WILSON: Page 102, Mr. Commissioner.

THE COMMISSIONER: Yes, I have it now, thank you.

MR. WILSON:

"--was a pal of Feeley and McDermott,
"and that they hoped to get him appointed
"Crown Attorney instead of the present
"incumbent, who from their point of view
"was much harder to get along with."

"There has been evidence that Don Scott "and an unidentified member of Parliament "in the Niagara Peninsula received some "money to take the pressure off the club "in Niagara Falls and the Niagara Falls "area."

Now, first, do you know Vincent Feeley or Joseph McDermott?

A. I do not know either of them, sir. I have never seen either of them, and I have never had any contact with either of them.

Q. Now, have you ever been approached by anyone with any request that the pressure be taken off any gambling clubs in the Niagara Falls area?

A. I have not, sir.

Q. And have you, in the course of your duties, have you had anything to do with any prosecution of - or the prosecution of either the Ramsey Club or the Frontier Club, or - you know the two clubs that I am speaking of?

A. No, sir, I didn't prosecute either of them. There have been occasions, sir, when members of the Bertie Township Police, and the Niagara Falls Police Department, and the Anti-Gambling Squad have discussed with Mr. Forestall and myself the general modus operandi regarding those clubs, and that is my only knowledge of it, sir.

Q. Well, now, prior to the raid on

the old Ramsey Club on August 18th, 1958, was there any consultation by the police with either Mr. Forestall or yourself?

A. Mr. Forestall and I, sir, occupy the same room in the Court House.

Q. Now, just so we will understand it, he is the Crown Attorney.

A. He is the Crown Attorney, sir.

Q. Yes?

A. We have discussed with the local police I believe the - I can't recall the name of the club, but it was operating in Bertie Township, the Ramsey Club in Niagara Falls. We were both of the opinion, sir, that the policy of harrassment of these two clubs was relatively successful, and our recommendation to the local police departments was they continue raiding these places as frequently as possible in an effort to have them closed up.

Q. And did you discuss with anyone in the ~~XXXIX~~ Ontario Provincial Police the clubs in question?

A. I can't recall specifically, Mr. Wilson. I have discussed it with, on occasions, my recollection is, with Sergeant Anderson. I can't recall specifically, sir, the times, but we have discussed the general situation relating to the Ramsey Club, yes.

Q. Now, I just want to be specific about part of this statement in Mr. Wintermeyer's

speech. Did you ever receive any money from anyone to take off the pressure - take the pressure off any club in the Niagara - any gambling club in the Niagara area?

A. I say most emphatically, sir, that I never received a nickel from anyone in the five years I have had this job for anything.

Q. Or any proposal? Did you ever have any proposal along those lines?

A. No one has ever approached me, sir.

MR. WILSON: I think that is all. That is all, thank you. One of my friends may want to ask you something.

EXAMINED BY MR. MacKINNON:

Q. You know Mr. Jolley, of course?

A. Yes, I do, sir.

Q. And his evidence this morning, to use his words, that he had come down with you to have you appointed as, I gather, Assistant Crown Attorney. Did he attend in Toronto with you on the occasion of your official appointment?

A. My recollection, Mr. MacKinnon, is that there was a vacancy for a full-time Assistant Crown. I spoke to Mr. Forestall, who was then, and still is, the Crown Attorney concerning it. He was content that I be

appointed. He suggested I contact Mr. Jolley. I did contact Mr. Jolley, and I am quite certain, sir, that Mr. Jolley came over with me to Toronto, introduced me to the Attorney-General, and to other members of the Attorney-General's staff, who questioned me. I think Mr. Bowman was one of them, yes.

Q. And he stated that on that occasion you introduced him to David Humphrey. Does that bring it back to mind?

A. Well, Mr. MacKinnon, that is possible. David Humphreys and I were students together.

Q. I was going to ask you that. You were both students in Dubin's office, I take it.

A. Yes, we were, sir.

Q. Were you in the same year?

A. No, I think David --

Q. Was a year ahead of you.

A. --is one year ahead, sir.

Q. Yes, and I take it you are a friend of David Humphrey's?

A. That is correct, sir.

Q. Yes, and even though you are in Niagara Falls, that you do see him from time to time.

A. I have seen him probably three or four times in the last four years, yes, ushum.

Q. And then when he is in Niagara

Falls he drops into see you?

A. Well --

THE COMMISSIONER: How would he - he wouldn't know that.

A. I wouldn't know that. He certainly has called me a couple of times when he has been in Niagara Falls, yes, and come out to my house, and I recall --

MR. MACKINNON:

Q. We have had evidence that he appeared before the Bertie Township Police Commission in the winter of 1958, January or February of 1958. Now, do you remember him dropping in to see you when he was in the area on that occasion?

A. I am - I am quite sure he did not, Mr. MacKinnon, from recollection, and again I cannot be accurate, sir. Mr. Humphrey defended three people in Welland Court, Kyller McKay, and O'Connell, and we started a preliminary hearing, I believe, on a Wednesday or a Thursday afternoon, and it was a long one. Now, the next one --

Q. What year was this?

A. Oh, dear. It is two or three years ago, sir, and he came out to my house at my invitation that night. I was at Osgoode Hall approximately a year ago, and I met him in the hall, and I think I had lunch with him on that date. Those are the only two places that I can recollect, sir.

Q. Did he never discuss with you the Frontier Club?

A. I recall him calling me once, sir, and I think it was by phone, to complain about the harrassment of the, as he called it, of the Frontier Club. I suggested that he would have to take that up with the Police Commission.

Q. Did he ever by implication or directly indicate that if you did use your good offices to reduce the harrassment that it might be to your advantage?

A. No, he did not. Most certainly did not, sir.

Q. Did you have any complaints from Mr. Humphrey about the old - about the Ramsey Club, what we call the old Ramsey Club which was raided on August the 18th, 1958. Did he not call you about that club as well?

A. No, my recollection --

Q. And complain about it?

A. My recollection, Mr. MacKinnon, is that is the only time he called me was in connection with the - and I have forgotten the name of that club.

Q. The Frontier Veteran's Club.

A. The one which was operating in Bertie Township. I know that I only spoke to him once.

Q. And this was a long distance

phone call, was it? He wasn't in Niagara Falls.

A. I don't know. My recollection is it was a telephone call. I don't think he was in Niagara Falls or area.

Q. But is it possible, when you say that, it might have been a sort of a face to face visit when he raised this?

A. I don't think so, sir.

Q. Now, we have been discussing in this hearing the 'Ramsey Brief'. Do you know what I mean by that?

A. Yes. Yes, I do.

Q. Now, what knowledge do you have of that brief, and its origins

A. I have never seen the brief, sir. I have a recollection, and I may be incorrect here, and I can be corrected, of Sergeant Anderson at lunch one day in Fort Erie or Thorold discussing the brief with me. I know I never seen the brief or its contents.

Q. You were not the one - the Crown who prosecuted the old Ramsey Club?

A. No, I wasn't, sir.

Q. Now, I have asked you about Mr. Humphrey. Did Mr. Jolley, who was the local member, ever talk to you about the Frontier Veteran's Club?

A. No, sir, he didn't.

Q. Do you know whether there were charges against Felix Borelli? Do you know

Felix Borelli, first of all?

A. Yes, I do, sir.

Q. Yes. Now, do you know whether there were charges laid against him? I refer to gaming offences?

A. I -- I have a recollection, Mr. MacKinnon, of speaking to, I think it was Mr. Moore and Mr. Napolitano of the Anti-Gambling Squad in connection with the charges we laid against Borelli.

Q. They were withdrawn, will that help you?

A. No, that is not the one, sir. He consulted me with reference to a raid.

Q. Who? Who?

A. My recollection Sergeant Anderson, or one of the members anyway in the Anti-Gambling Squad, in which Borelli, if I recall it, produced a revolver and it was my recollection I laid charges in connection with that, and that he was sentenced to three months. Now, I stand to be corrected there, sir. It is several years ago.

Q. You don't remember any gaming house charges that were laid and then withdrawn against Borelli?

A. No, we had a -- a number of charges that I prosecuted, sir, against gaming houses in Niagara Falls, in which there were perhaps three or four people charged as keeper. My

recollection is that one of them - two were convicted, and the other were withdrawn. I don't think one of those was Borelli.

Q. Yes. Well, I am interested in Felix Borelli.

A. No.

Q. But you cannot help me with any recollection of that.

A. No.

MR. MacKINNON: That is all, thank you.

REXAMINED BY MR. WILSON:

Q. There is one matter that I perhaps should deal with. In the course of your duties as Assistant Crown Attorney, have you had any interference in the carrying out of those duties by any of the senior legal personnel of the Attorney-General's Department?

A. I most certainly have not, sir.

Q. And how have you found - what have your relations been with the senior legal personnel of the Attorney-General's Department in connection with your official duties?

A. I have found, sir, in the 5½ years that I have been there that I have on a number of occasions discussed matters with Mr. Common and Mr. Bowman. I cannot think of any two people who have been more helpful, who have given me more guidance, or whom I

have more respect for. They have never interfered. They have listened carefully, and in cases where I recommended an appeal in various matters they have conducted that for me.

Q. I was just looking at Felix Borelli's record. I see it is rather lengthy, but getting down to the period which you have been in office, in 1959 and 1960 there are certain convictions, and by looking at the convictions in those years can you recall whether one of these is the one you were speaking about a few minutes ago.

A. The reference you are now giving me, Mr. Wilson, in 1960, November 17th, Niagara Falls, assault police officer, three months, in my recollection is the occasion upon which he drew the revolver on one of the members of the Anti-Gambling Squad. 1959, July the --

Q. Before we leave this one in 1960, where the officers going to Mr. Borelli's premises for the purposes of carrying out a search pursuant to a search warrant?

A. That is my understanding.

Q. In connection with the trial of R. J. Wright?

A. That is right, sir.

Q. Yes, and that charge arose out of the efforts of the officers to execute that warrant?

A. I - my recollection is, Mr. Wilson,

that at the time Sergeant Anderson and the other members spoke to me that somewhere during the search this man had obtained a revolver, and had produced it to the officers, and said certain words, and that as a result of which we laid a charge of assault by threatening. That is my recollection, sir.

Q. Yes.

MR. MacKINNON: That may be made an Exhibit now it has been shown.

MR. WILSON: Well, we will be making it an Exhibit when Mr. Borelli is in the box.

MR. MacKINNON: I wouldn't mind having a look at it. Of course we play it by ear on this side.

THE COMMISSIONER: Pardon?

MR. MacKINNON: I don't see the information Mr. Wilson has.

MR. WILSON: How can my friend make a statement like that. They have been given copies of practically every bit of information we have.

MR. MacKINNON: A lot we haven't got.

THE COMMISSIONER: Let me know what you haven't got, make a note of it, and I will see you get it.

MR. WILSON: Let him see all the information he wants.

MR. MacKINNON: Well, I don't know what I want. I don't know what he wants until he

asks questions. I notice he asks questions I know nothing about. Mr. X was a very good example of that.

THE COMMISSIONER: All that he is referring to at the moment is the record of Borelli, and he has assured us that that will be going in when Borelli is called.

MR. MacKINNON: It would be nice for me to have a look at it.

THE COMMISSIONER: Do you want to see it now?

MR. MacKINNON: No, but I would like to see it ahead of time.

MR. WILSON: I have no objection to filing it as an Exhibit now.

THE COMMISSIONER: Let's not clutter up the record.

MR. WILSON: That is all, my lord.

THE WITNESS: I wonder, with your permission, if I might say one thing, sir.

THE COMMISSIONER: Yes?

THE WITNESS: I am sorry to take your lordship's time, and the Commission's time, but I wonder if these persons who are connected with this matter have any real realization, sir, of the damage that can be done in accusations of the type that have been made against me. I am thinking particularly, sir, of my children, who came home from school when my picture was in papers. One daughter

I couldn't get back to school for two days because of insinuations made against me. I have been, sir, for 5½ years the Crown Attorney down there, and I have attempted to do, as far as possible, my lord, a very good job of the position I took, and I wonder, my lord, if anyone who is not intimately connected with this matter has any idea of these innuendoes, character assassination and association are put forth in the newspapers what it does to one man's family. I wish to make that observation, sir.

THE COMMISSIONER: All right.

THE WITNESS: Thank you.

--- The Witness withdrew.

MR. WILSON: Well, it might be a convenient time for the morning break, Mr. Commissioner. I have a witness on the way who may be a few minutes.

THE COMMISSIONER: All right.

---A short recess.

(Page 3495 follows)

D/FJMcG/1

DAVID GONDRAN HUMPHREY, sworn,

EXAMINED BY MR. WILSON:

Q. You are a practising solicitor in the City of Toronto?

A. Yes, sir.

Q. You did have a period of service as an assistant Crown Attorney?

A. Yes, sir.

Q. For how many years did you occupy that position?

A. Four years.

THE COMMISSIONER: Q. What period was it?

A. Pardon?

Q. What years were they?

A. 1950 to 1954.

MR. WILSON: Q. Since 1954 you have been in private practice?

A. Yes, sir.

Q. You have heard of a speech given by Mr. J.J. Wintermeyer in the Legislature on the 29th of November, 1961?

A. Yes, sir.

Q. When did you first hear of that?

A. Of the fact that it had been given or was going to be given?

Q. Oh, had you prior knowledge of the delivery of the speech?

A. Yes.

Q. In what way did it come to your

attention?

A. I discussed the matter with Mr. Hogg.

Q. Who is Mr. Hogg?

A. He is the assistant counsel to Mr. MacKinnon.

Q. Mr. Stanton Hogg?

A. Yes, sir.

Q. Under what circumstances did you ---

MR. MacKINNON: I am wondering what this is leading up to.

THE COMMISSIONER: I don't know yet.

MR. MacKINNON: Because I thought we were dealing with the Ramsay brief in this.

MR. WILSON: We are going to deal with the Ramsay brief.

THE COMMISSIONER: Q. You discussed something with Mr. Hogg?

A. Yes, my lord.

MR. WILSON: Q. What was the discussion?

THE COMMISSIONER: Q. What did it have to do with? What was the subject matter of the discussion?

A. Well, it was as to, 1, how good the speech was going to be, and, 2, as to whether my name might be included in that speech.

MR. WILSON: Q. Well, what was said about the inclusion of your name in this speech?

A. There were two or three conversations, as I recall it, with Mr. Hogg, he indicating, as I say, how good the speech was going to be

and it was going to name names and so forth and so on. Then during one of our conversations when he said that the speech was going to be made on a certain date and so forth and so on, I indicated to him at that time that that might be a good day to issue a writ ——

THE COMMISSIONER: Just a moment. I know what you are leading up to and I don't think it has any relevance to this inquiry at all. This is some civil litigation that you were going to start, is that right? Just say yes or no.

A. Yes, that is correct.

Q. It has nothing whatsoever to do with this inquiry.

MR. WILSON: Q. How long before the speech was delivered did this discussion take place?

A. As I recall, about a day or two.

Q. In the speech of Mr. Wintermeyer, which is filed as Exhibit 3, starting at the foot of — it is on page 101 at the bottom of the second column, I will read a reference which includes mention of your name.

"There has been evidence that the "anti-gambling branch received from "Inspector Stringer an unsigned, undated "brief on how to convict the old Ramsey "Club in Niagara Falls and that this "brief was actually prepared by Robert "Wright and David Humphrey, the Toronto

"lawyer to whom I have already referred.
"There has been evidence that prior to
"the receipt of this brief Vincent
"Feeley gave the same information
"orally in several telephone calls to
"W. J. Shrubb, then a member of the
"anti-gambling squad and now deputy
"chief of police at Peterborough."

You became aware of that statement that I have just read after the speech was made?

A. Yes, sir.

Q. Now, before I deal with the statement that is made there, do you know Vincent Feeley?

A. Yes, sir.

Q. Do you know Joseph McDermott?

A. Yes, sir.

Q. First, when did you first meet Vincent Feeley?

A. That would be some time after a club, I believe it was called the Tindale Club, was charged in Peterborough. I would estimate in 1956.

Q. In 1956?

A. Whenever that club was charged in Peterborough.

Q. Well, did you have some connection with the defence of the people who were charged in respect of that operation, the operations at that club?

A. Yes, sir.

Q. That, I think, was in the fall of 1955, that the actual raid resulted in the prosecution?

A. I presume it would be shortly after that that I would have met Feeley.

Q. There were two trials?

A. Yes, sir.

Q. Were you involved in the first trial?

A. Yes, sir.

Q. Who did you act for in connection with that prosecution?

A. I cannot recall, sir. There were a number of accused. As I recall, Mr. Sol Gebirtig was one counsel and I was the other, and we would have between us, as it were, shared the accused. I am not sure which ones I was designated to appear for.

Q. You say it was around about that time that you met Mr. Feeley?

A. Yes, sir.

Q. Under what circumstances did you meet him?

THE COMMISSIONER: Just a moment. Who were the accused?

MR. WILSON: Q. The accused were ---

THE COMMISSIONER: I will have the witness tell me.

A. There was Ronald Horton, Neill Herrington and others whose names I do not recall. These were the principal defendants, as I

recall it.

Q. Which one of the two, Morton or Herrington, did you represent?

A. I don't know, my lord.

Q. Well, you represented one and Sol Gebirtig the other?

A. That may have been, my lord. We were both to defend those persons who were charged and just for whom I appeared I cannot be sure.

MR. WILSON: Q. Under what circumstances did you meet Vincent Feeley at the time of the defence of one of these accused?

A. I really don't recall that. I recall receiving a phone call from Mr. McDermott who at the time I had my conversation with him I thought was a lawyer by the conversation I had, indicating that he was interested in a club in Peterborough, indicating that the accused requested my services as counsel, and the fact ----

THE COMMISSIONER: Q. Just a moment. You received a phone call from him?

MR. WILSON: This is from McDermott, is it?

A. McDermott.

MR. WILSON: I think, Mr. Commissioner, we have jumped from Feeley to McDermott.

THE COMMISSIONER: Let him go on with McDermott for a moment now that he has started.

MR. WILSON: Yes.

THE COMMISSIONER: Q. A telephone call from McDermott?

A. Yes.

Q. Who said that he was interested ---

A. He was interested. He spoke in such a way that I thought he was counsel or a lawyer for this club, and it was only after finishing my conversation with him and speaking to Mr. Gebirtig that I found he was not a solicitor for this club, that he had other interests in the club.

Q. That he hadother interests in the club, did you say?

A. Well, he had some other interest than as a lawyer, because he was not a lawyer.

Q. But he was interested in the club; that is the point I am making?

A. Yes.

Q. He was interested in the club?

A. And then ---

MR. WILSON: Q. Up to that point you had had no dealings with either Joseph McDermott or Vincent Feeley?

A. No, except, having known them, after that I recall that I prosecuted Feeley once years before.

Q. Now, what did McDermott, if it was McDermott that called you, what was he asking you to do in connection with the Tisdale Club prosecution?

A. Well, as I say, I thought I was speaking to a solicitor. He said, "Mr. Humphrey,

this is Joe McDermott from the Lakeshore," words to that effect. I said, "Yes". He said, "There has been a club charged with a breach of the gaming regulations, keeping a common gaming house in Peterborough. There have been a number of accused charged and Solly Gebirtig will be one of the counsel and the accused were wanting to know if you would be one of the other counsel and what would your fee be and would you be willing to work with Mr. Gebirtig on the case, and are you free", and so forth and so on. I said, "Yes".

Then he said, "I will have Mr. Gebirtig contact you or you might contact him and you can get together and collaborate on the case." Immediately after that I spoke to Mr. Gebirtig and said had Joe McDermott spoken to him. He said, "Yes". I said, "You know, that lawyer down on the Lakeshore". He said, "He is not a lawyer". He said, "We are apparently going to take this case together, and that's fine". It was after that that I met Feeley. I cannot say whether it would be within a week or a month or when.

MR. WILSON: Q. I take it then that you already knew of Feeley by reputation and within a matter of days or weeks you knew what McDermott's occupation was and what his interest was in the Tisdale Club?

A. I still don't know what his interest

is in the Tindale Club.

Q. Do you mean by that exactly what his percentage of interest was or what?

A. I just have no knowledge of what he was interested in. Now, how he was interested in that club, I don't know. Whether he was interested in the personnel of the club itself or what his interest was.

Q. Did he pay your fee on that occasion?

A. No, Mr. Horton, I believe, paid my fee.

Q. But following this telephone call from Mr. McDermott did you after that time see him regularly?

A. Yes, quite frequently.

Q. And acted for him regularly?

A. I think there was only one case that he was personally charged that I acted for him, but I acted in a number of matters in which he was interested.

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Q. Well, I take it that within a matter of weeks after you first hear from Mr. McDermott you were aware that he was a gambler?

A. That might be fair. It might be a bit longer than that. I was aware certainly over a period of years, I was aware of the fact that he was a professional gambler.

Q. Well, he never made any secret of it anyway, did he?

A. No, I don't think so.

Q. What part did he play in the preparation

of the defence of these accused in respect of the Tisdale Club prosecution?

A. I don't recall his participation at all in that. He was never in Peterborough, to my knowledge. I recall that when the accused were convicted and sentenced to jail we drew up the notice of appeal and I think he might have taken the bail papers down to Peterborough to be signed and then brought back for the Court of Appeal. I am almost sure I recall his doing that because there was some discussion about his burning the motor out in his car driving down there and back. Other than that, I don't recall any participation of his.

Q. Did he arrangethe bail for these accused?

A. I don't know.

Q. You say he took the bail papers down to Peterborough at the time of the appeal?

A. Yes. We made application for bail in the Court of Appeal. The bail was granted. I don't know in what amount. And then it is necessary to take those papers to where the bondsmen are and where the accused is and have them executed and then bring them back to the Registrar of the Court of Appeal so he might examine them and if they are in order give a release order which is then taken back to the jail.

Q. What you are saying is that you don't

know -- you know he was interested in what was happening, as far as the prosecution was concerned?

A. Yes.

Q. But you did not know the exact interest he had in the operations that had been carried on at the Tisdale Club?

A. That's right, sir.

Q. Did you subsequently learn what that interest was, in that Tisdale Club operation?

A. No, sir.

THE COMMISSIONER: Q. Did you act for one of the accused on the appeal?

A. No, sir.

Q. Who did?

A. Mr. Martin.

MR. WILSON: Q. On the new trial did you continue to act?

A. To a point. Mr. Gebirtig and I went down to Peterborough for the new trial and Magistrate Bartram was designated apparently to hear the case and it was agreed upon by counsel, with the consent of the Crown Attorney, that we would file the transcript of the last case through, I believe it was, Sergeant Anderson, although I am not sure, but through a witness.

The accused were arraigned and pleaded not guilty and then the transcript and all the exhibits were filed through a witness. Then the

case was remanded for, I believe, a week for the Magistrate to read the transcript and consider it and to consider the exhibits.

Then Mr. Gebirtig and I went back expecting to see Magistrate Bartrem and expecting to deliver our argument, and Magistrate Hopkins from Hamilton was there.

Q. Well now, tell us, on the first occasion that the accused came before the Court after a new trial was granted, what Magistrate was presiding?

A. I believe it was Magistrate Bartrem.

Q. And then you say at that time -- had you prior knowledge of the fact that Magistrate Bartrem was going to preside at the new trial?

A. My best guess would be yes.

Q. From what source would you have obtained that information?

A. I imagine from speaking to somebody in the Attorney General's Department or perhaps it was in conversation with the Crown Attorney who was to prosecute the case.

Q. When a new Magistrate is to be appointed in the case of a new trial, is it customary to divulge that information to counsel for the accused?

A. Oh, I think so. I don't think it is any secret.

Q. And there are two sources, I take it, from which the information could be obtained;

one, the Inspector of Legal Offices, and the other the local Crown Attorney?

A. Or from the Magistrate or from the Attorney General's Department or from anybody else who happened to know.

Q. Well, is there ever any secrecy about who is to take a Court when an outside Magistrate is to be brought in?

A. Not that I know of.

Q. And you would, I take it, when you obtained that information, have passed that information on to your client or ----

A. Yes.

Q. Possibly Mr. McDermott or Mr. Feeley?

A. Yes.

Q. Had you received any instructions from your client when this matter first came before Magistrate Bartrem to plead guilty?

A. No, sir.

Q. Had you at that time carried on any discussions with anyone in regard to -- well, anybody in the Attorney General's Department or the local Crown Attorney, Mr. Bradshaw, in regard to some possible arrangement or deal about a plea of guilty?

A. I think so but I am not sure at what stage. I know at one stage Mr. Gebirtig and I both spoke to Mr. Bradshaw with a view to pleading guilty to the charge in the hope that a fine would be imposed by the Magistrate.

Q. When you say that, at what stage would this be? Would this be with relation to the new trial?

A. Oh, yes.

Q. This was Mr.Bradshaw, the local Crown Attorney at Peterborough?

A. Yes, sir.

Q. What is your recollection of the nature of the discussions you and Mr. Gebirtig had with Mr. Bradshaw at that time?

A. Well, I think some time had passed at that point and there had been some publicity given to the accused and I think they were in custody for some period of time before they were allowed out on bail, and I think these factors were brought to his attention. It was brought to his attention that the case in the first instance, I think, took several months to try from time to time, and that under these circumstances we felt that he might consider recommending to the Magistrate that a fine might be suitable. As I recall, it was something along those lines.

Q. That is if a plea of guilty were entered?

A. Yes.

Q. Now, what was his reaction to that proposal by Mr. Gebirtig and yourself?

A. It seems to me that his attitude was that it seemed reasonable to him but it was

up to the Magistrate, and I think it was just left there. I think we were out of the case by the time the final plea was entered.

Q. Well, then, nothing came of it as far as your interest in the case was concerned, because you retired from the case before the actual plea of guilty was entered and the matter was disposed of by Magistrate Hopkins?

A. Yes, that is true, but I have it in my mind, my impression is that if we pleaded guilty that the Crown Attorney would so recommend to the presiding Magistrate.

Q. Well, then, why was not a plea of guilty entered before Magistrate Bertram?

A. Oh, I think that clears my memory a bit now. As I recall it now, I think the fact that he said he had no objection, I think we pushed it one bit further and said, "Well, do you mind if we try on a plea of not guilty? We will do it in an expeditious way; we will not have a full trial; we will just file the transcript".

Our defence really depended on a legal interpretation of the facts that were presented. I don't think there were any issues to be decided. My recollection is that he said something to the effect, "All right; we will do it that way. If you are found guilty, I will still have no objection to a fine, but it is up to the Magistrate". That is my recollection

of it now.

Q. That is at that stage you were discussing the use of a transcript as the evidence for the Magistrate to determine the guilt or innocence of the accused?

A. Yes.

Q. In other words, there would not be a trial de novo?

A. No. And the first trial, as I say, as I recall, was over a period of some months and took a great deal of time.

Q. Why was that procedure not adopted?

A. I think it was adopted. I think we did plead not guilty and filed the transcript before Magistrate Bartrem. My impression is that it was with the understanding that if we were found guilty the Crown would have no objection to a fine.

Q. The trial did not proceed in that manner before Magistrate Bartrem; and what was the reason?

A. Well, it started to proceed that way, as I indicated earlier. We filed the transcript and exhibits. It was adjourned for a week so we might prepare our argument and he might read the transcript. When we returned we were surprised to find that Magistrate Hopkins had replaced Magistrate Bartrem. And there was quite a little to-do about that in the Magistrate's Court when we appeared.

Q. What was the to-do as far as you were concerned, representing one of the accused?

A. Well, Magistrate Bartram had become seized of the matter and, as I recall, and it was unknown to us that Magistrate Hopkins was coming, and there was some argument. I think we presented argument to the effect that Magistrate Bartram was seized of the matter and Magistrate Hopkins, whose reputation dealing with gaming house cases is well known, is well known as being very strict ---

Q. Who is that?

A. Magistrate Hopkins.

Q. Oh, yes.

A. He wanted to try the case. We took the position that Magistrate Bartram was seized of it and I think Magistrate Hopkins indicated something to us to the effect that we thought we would get a better deal out of Magistrate Bartram. One of the replies was that obviously the Crown thought that they might get a better deal out of Magistrate Hopkins and that was obviously why he was there instead of Magistrate Bartram who was seized of the matter.

Then we told Magistrate Hopkins, with the greatest respect to him, we were of the view that Magistrate Bartram was seized of the case and if he proceeded to try it, it would be a nullity and we would have to try it all over again, and we asked and were granted

permission to withdraw from the case, and then Magistrate Hopkins adjourned it for, I think, a couple of weeks.

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Now, we advised the accused that in view of our conduct before Magistrate Hopkins that they would be well advised to obtain other counsel at the hearing before Magistrate Hopkins and perhaps it might be better all around if they did that, and they did.

Q. What was the explanation that was given for the appearance of Magistrate Hopkins in place of Magistrate Bartrem?

A. I only heard afterwards.

THE COMMISSIONER: Q. From whom? You heard something from whom?

A. Yes, I heard afterwards, as I recall -- as I recall, it was from a lawyer in Hamilton, and, as I recall, it was John Agro, a lawyer in Hamilton, that Magistrate Hopkins indicated that it was because of his reputation for being very tough on gaming house cases that the Attorney General's Department had sent him down there.

MR. WILSON: Q. Well, was there no discussion, no explanation given by Mr. Bradshaw when Magistrate Hopkins appeared?

A. None that I recall.

Q. Well, this was something that happened without any prior notice to you as representing one or more of the accused?

A. As I recall, that is the way it happened. I know it was very confusing and I know that Magistrate Bartrem was under the impression that it was we who had taken him off the case because he mentioned that to me on at least two occasions afterwards.

Q. Can you fix the date of your appearance before Magistrate Hopkins? Have you any file on this matter?

A. No, sir.

Q. Do you keep files on this type of matter?

A. Generally not, sir.

Q. If Sergeant Anderson reports that on November 28th, 1956, in Magistrate's Court in Peterborough this matter came before Magistrate Hopkins in the presence of yourself and Mr. Gebirtig representing the accused, and that the Crown Attorney, Mr. Bradshaw, stated it was felt that Magistrate Bartrem had disqualified himself from dealing further with the case as a result of his having read the transcript of the prior trial, and then electing to proceed with a trial de novo — now, does that refresh your memory?

A. Yes, that does refresh my memory. I think there was some stage at which Magistrate Bartrem indicated that he didn't think it would be proper to try the case on the transcript. That may be. Yes, I do recall something along

those lines being said.

Q. And do you also recall that the Crown Attorney, Mr. Bradshaw, stated that Magistrate Bartrem had disqualified himself as far as his right to hear the case because he had read the transcript and then decided he wanted to hear the evidence?

A. That who said this, sir?

Q. Crown Attorney Bradshaw.

A. I have some recollection of something along those lines being said. As I say, Mr. Gebirtig and I were under the impression that this was something done by the Crown officials, to get Mr. Hopkins from Hamilton.

Q. After the first contacts you had with McDermott and Feeley in the fall of 1955 did you continue to act for them on various matters in 1956 and 1957?

A. Yes, sir.

Q. What matters? On what matters, to your recollection, did you act on their behalf in the years 1956 and 1957?

A. Well, when you say on their behalf, I acted in a number of instances in cases in which they were interested. In some of those cases they would simply follow the case. In some of those cases they would actually ask me to act on behalf of the accused and so forth and so on.

Now, in no particular instance can I indicate, I don't think, with any degree of

accuracy to what extent they were interested. They were just interested in a number of different matters in which I acted.

THE COMMISSIONER: Q. What was the nature of the matters?

A. Well, there are so many, my lord; a number of gambling cases and I think a number of different civil matters, a number of business matters.

MR. WILSON: Q. Well, in 1956 have you any recollection of any gambling prosecutions which you entered into the defence of or gave advice on, on behalf or at the request of either McDermott or Peeley?

A. As I recall the sequence of events, the first case was the Peterborough case.

Q. Yes?

A. Then there were, I think, two or three cases in New Toronto.

THE COMMISSIONER: Q. Two or three, did you say?

A. Yes, my lord.

Q. Of what nature?

A. They were ---

Q. Gambling or bookmaking?

A. Bookmaking.

MR. WILSON: Q. Then I would like ---

THE COMMISSIONER: Q. Just a moment. McDermott and Peeley retained you for the accused?

A. Yes.

Q. And McDermott and Feeley retained you in the Peterborough case?

A. I think that would be fair, that they indicated that the accused wanted me to act and they wanted me to act, and would I take the case and so forth.

Q. All right.

MR. WILSON: Q. What was your first connection with the Centre Road Veterans Club as far as McDermott and Feeley were concerned?

A. I don't understand you, sir.

Q. Well, were you a member of the Centre Road Veterans Club in Cooksville?

A. I signed a card, I believe, upon entering one evening, if that makes one a member.

Q. Did you attend there on more than one occasion?

A. Yes, sir.

Q. What kind of an operation was going on on the occasions you attended there?

A. People were playing dice.

Q. A bank game?

A. Insofar as I could tell, I would imagine it would be a bank game. I don't have much ---

Q. Were you participating in the game?

A. Yes, sir.

Q. Sergeant Anderson of the Ontario Provincial Police has given evidence here that

in April, 1957, he was at the CentreRoad Veterans Club and that you were there in the presence of Joseph McDermott. Do you recall that occasion?

A. I recall the occasion although I couldn't agree to the date. I don't know. That probably is the date.

Q. And that was not during the evening hours but rather during the day?

A. Yes, sir.

Q. And were you there on business on that occasion?

A. Well, if you call being paid for your services, it was business.

Q. Yes?

A. I had just defended him an hour or so before on a careless driving charge in a Court in the west end.

Q. Did your legal services extend to any matters pertaining to the operation of the Centre Road Veterans Club?

A. No, sir.

Q. You had nothing to do with that operation?

A. No, sir.

Q. Let's take the Frontier Club; maybe in order we might take the Roseland Club in Windsor first. Are you familiar with that club?

A. Yes, sir.

Q. What was your connection with any of the operations of that club?

A. I think the first that I heard of that club specifically, at least, was the fact that certain persons had been arrested and charged with keeping a common gaming house at that club in Windsor.

Q. Yes?

THE COMMISSIONER: Q. Who were they?

A. There was Leo Finnigan, Gardner ---

Q. Curly Gardner?

A. Yes, my lord. A fellow whose name I believe is Amodeo and a person whose name I could not recall.

Q. And who asked you to represent any one in connection with that prosecution?

A. Mr. McDermott.

Q. To refresh your memory, that raid took place on November 13th, 1957.

A. That may be. I don't know. As I recall, it was around, I think the trial took place, I think, around New Year's.

Q. I think that's right.

A Yes.

THE COMMISSIONER: Q. Well, McDermott asked you what?

A. If I would be interested in acting along with other counsel in the defence of this club in Windsor.

MR. WILSON: Q. And you agreed?

A. Yes, sir.

Q. Did he arrange for the other counsel?

A. I don't know. There were two counsel from Windsor and ---

Q. Just tell us who they were.

A. Mr. Barney Cohen from Windsor defended one of the accused, and I think Mr. Allen defended another of the accused, and then another lawyer from Toronto defended one.

Q. Who was the lawyer from Toronto?

A. Mr. Martin.

Q. Mr. Arthur Martin?

A. Yes.

Q. What other lawyers were involved in the defence?

A. And myself. Those were the counsel that appeared, sir.

Q. In the preparation for the trial what other lawyers appeared and took part in that preparation of the defence?

THE COMMISSIONER: Q. Just a moment. You say that Mr. Cohen, Mr. Allen and Mr. Martin and you appeared at the trial; is that what you said?

A. Yes, my lord.

Q. The next question Mr.Wilson asked was, who were the counsel acting during the preparation for the trial?

MR. WILSON: Q. In addition to those ones you have named?

A. Mr. Herman, I believe.

Q. What Mr. Herman are we talking about?

A. Mr. Lou Herman.

Q. Yes?

A. He came to Windsor and I believe he was there in order to prove the charter and other matters such as that before the Court, the fact that they were a social club and so forth and so on.

Q. Who accompanied Mr. Lou Herman on that occasion?

A. I believe he was alone, as I recall. I don't know if he came with any one else or not.

Q. Then did some of the counsel engaged in this matter, including Mr. Herman, have a meeting in Detroit, in the Detroit Leyland Hotel?

A. I thought it was the Cadillac Hotel, but that may be.

Q. Well, I won't quarrel about the hotel.

A. Yes, there was at least one and probably more meetings in that hotel, or in a hotel.

Q. Tell us who were present at those meetings?

A. Do you mean legal counsel?

Q. Legal counsel.

THE COMMISSIONER: No, no, everybody.

MR. WILSON: I was coming to the others, Mr. Commissioner, but we will get them all in at once if you wish.

THE COMMISSIONER: Well, take them one at

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a time. Take counsel first.

A. Mr. Martin, Mr. Cohen, Mr. Allen, and possibly Mr. Herman, Mr. Walton C. Rose, and I don't recall whether he was in any of those meetings or not. There would be the accused ---

MR. WILSON: Q. When you speak of the accused, which one in particular did you act for?

A. I think Finnigan.

THE COMMISSIONER: Q. What did you do, toss a coin as to which one you would represent?

A. It was almost that way, my lord.

MR. WILSON: Q. Maybe the assignments were passed out at the meetings in this hotel?

A. I think there was one person -- if anybody was to be convicted we felt it would be the steward who was in charge of the club, and Mr. Martin was given the assignment of defending him.

Q. Who else, apart from the counsel, were present at these meetings to plot strategy?

A. I recall Mr. McDermott being there on several occasions.

Q. Mr. Joseph McDermott?

A. Yes.

THE COMMISSIONER: Who else? We will get them all first. McDermott was there and who else?

A. There would be Mr. Gardner who would almost always be there; that is the accused Gardner. Mr. Finnigan, I think, would almost

always be there. I don't recall Mr. Amodeo being there at all. There were other persons who seemed to be interested in the club who were about and I don't recall them in any of these hotel meetings. The only persons that I recall that you might be interested in that were there, and I think the only time that I met them was at a dinner engagement, was a fellow called Giacalone who was from Detroit and seemed to have some interest in the club, and with him was a Mr. Corretta, and I believe his name is Dominic Corretta, also from Detroit.

MR. WILSON: Q. Just tell us what you know of Mr. Giacalone.

THE COMMISSIONER: Q. Just a moment. Is that all that you can recall at the moment that were there?

A. Yes, my lord.

Q. Let us just go over it now for a moment. The lawyers were Mr. Barney Cohen?

A. Yes, my lord.

Q. Mr. James Allen?

A. Yes, my lord.

Q. Mr. Arthur Martin?

A. Yes, my lord.

Q. And yourself?

A. Yes, my lord.

MR. WILSON: No ---

A. As counsel.

THE COMMISSIONER: Q. It was understood

you would be the counsel from the beginning?

A. Yes, my lord.

Q. But in addition to that there were others. There was Mr. Louis Herman?

A. Yes, my lord.

Q. And Mr. Wally Rose?

A. Yes, my lord.

Q. Those were all the lawyers?

A. Yes, my lord.

Q. Well then, also at the meeting, and I suppose conferring with the lawyers, there was McDermott?

A. Yes, my lord.

Q. And Gardner?

A. Yes, my lord.

Q. Giacalone and Dominic Carrotta?

A. I think I indicated to your lordship I do not recall them attending any meetings. In fact, I think I would have recalled them had they been there. I only recall their presence at a dinner at which would be present, I think, Mr. McDermott, myself, Mr. Rose, Mr. Gardner. I am not sure whether Mr. Finnigan would be there or not. Possibly so.

Q. Just a moment. I want to get this. It may be important. At a dinner there were present what lawyers?

A. Myself, Mr. Rose, McDermott, Gardner, possibly Finnigan, I am not sure.

Q. I will put a question mark after him.

A. Dominic Corrotta and Billy Giacalone.

MR. WILSON: Q. Wasn't any ---

THE COMMISSIONER: Q. Where was the dinner?

A. I don't recall, my lord. It would be a public restaurant in Detroit somewhere.

Q. Just so I will have a clear understanding of this, these meetings that you earlier spoke about in the hotel, were they confined to the lawyers and McDermott and Gardner and Finnigan?

A. Pretty well, my lord. I recall two people who were there who were in the building business in Detroit who were anxious to give evidence but didn't seem to have any real connection with the thing at all; they may have been stragglers coming in and out. But those were the principal ones.

Q. We can strike out Giacalone and Corrotta as having been at the meeting in the hotel then?

A. Yes.

Q. Now, I have it straightened out. Proceed, Mr. Wilson.

MR. WILSON: Q. Was Eddie Gurella there?

A. I don't think I know any Eddie Gurella.

Q. You don't know him?

A. No.

Q. Tell us what you know about Giacalone?

A. Nothing.

Q. Didn't you learn anything about him

or his reputation?

A. Well, if he is one of those people that went to Apalachin, he is supposed to be a Mafia member.

Q. No; I am just asking you what you learned about him when you had dinner with him in Detroit?

A. The only thing I did learn is that he could procure two tickets for the football game the next day which Mr. Rose and I went to, but other than that I couldn't tell you anything about him.

Q. What interest did he have in the Roseland operations?

A. I don't know. He seemed interested.

Q. He seemed interested?

A. He seemed interested in the case more than just a person sitting down for dinner would be if he didn't have some type of interest in it.

Q. I mean he didn't come along to the dinner to get you football tickets?

A. No.

Q. The other gentleman you mentioned as being present from Detroit ---

A. Corrotta.

Q. What did you learn about Corrotta's interest at that time in this Roseland Club?

A. Nothing except that he seemed interested. Not as interested as Giacalone but

he seemed interested, as I recall it.

(Page 3525 follows)

E/1/O'N

Q. Now, at this hotel, whether it was the Cadillac or the Leyland, did you have a meeting to discuss the strategy among the lawyers, including Mr. Herman and Mr. Rose, at which Mr. McDermott was present?

A. I think so.

Q. And did you have a meeting in particular, at which I understand Mr. Martin was not present, where Mr. McDermott set up a scheme to get Inspector Hatch of the OPP over from Windsor to Detroit to be met by some people?

A. Well, I object to your use of the word "scheme".

Q. You describe it in your own words.

A. Reports had come to us through a gentleman, whose name escapes me, who ran a clothing store in Detroit, which Mr. Hatch would know.

THE COMMISSIONER: Q. Would you go more slowly, please.

A. Yes, my lord.

Q. Reports came ---

A. It was brought to our attention, somehow, by this man who operated a shirt or clothing store in Detroit.

MR. WILSON: Q. Could I help you? Would his name be Miller?

A. I wouldn't recall it, sir.

A. I wouldn't recall it, sir.

Q. Would this name be helpful

MR. WILSON: Q. Could I help refresh

recollection by this question: Did you have

a meeting to discuss the business around the

Factory, including Mr. Thorne and Mr. Hood,

at which Mr. Thorne was present

A. I think so.

Q. And did you have a meeting in

particular, at which I mentioned Mr. Curtis

was not present, where Mr. Richmond met to

a volume to pre-announce Union of the new

name possibly

A. Well, I object to your use of

the word "volume".

Q. You described it as your own

remarks.

A. Mr. Richmond had come to us several

a discussion, whose name mentioned me, who was

a consultant engaged in Toronto, which Mr. Jones

recalls knows

Mr. CHAIRMAN: Q. Would you re-

read Miss Jones' answer.

A. Yes, my Lord.

Q. Counsel said --

A. It was brought to our attention.

Question, by this man was concerned a matter of

discussing among the Council.

MR. WILSON: Q. Could I help refresh

Q. Would the store be Sam's store?

A. I wouldn't recall it.

Q. You wouldn't recall it?

A. No.

Q. What kind of store did he run, to your recollection?

A. It would be shirts, ties and accessories, as I recall it. Not of a high class nature. A clothing store like Honest Ed's as I recall it.

Q. Would you go on and tell us.

A. It was brought to our attention representations were being made to him with a view to getting him to give evidence against this club, and that he would be given money that there were rather large sums of money set aside for persons doing this type of thing, and that he also would have, generally speaking, the key to the city, as it were, so that he would have police protection for whatever he chose to do, and this was supposedly -- he felt improper inducements were being made to secure evidence against the club. This was being reported.

THE COMMISSIONER: Q. Who reported that to you?

A. I don't know, my lord. It would be at one of these meetings it was discussed. It would come through one of the accused. Mr. Gardiner knew him and Mr. Finnegan knew him.

there

In fact, he came, himself, and told us the story.

MR. WILSON: Q. Do I understand Mr. Miller, if he was to give evidence, he was to be given some reward?

A. That was my recollection of the thing, a that improper inducements were being held out to him in order to secure evidence against this club.

Q. By whom?

A. By the person in charge of the case.

Q. Who was that?

A. Sergeant Hatch.

Q. Sergeant Hatch?

A. Yes.

MR. WILSON: Now, you have been engaged as an Assistant Crown Attorney in this Province and have been a practicing lawyer in the criminal field for quite a few years.

A. Yes sir.

Q. Have you ever had any knowledge of any improper inducements ever having been held out by members of the Ontario Provincial Police to any would-be witness?

A. No.

Q. On this occasion did you put some credence in the story that this Mr. Miller, or whatever his name was, was giving to you.

A. Some.

Q. Why?

A. Well, first of all, it is only since this incident I have learned of Sergeant Hatch's good reputation. I had no knowledge of him at that time, but I thought it odd that this person would give a report, come and report this, since he was in no way connected with the alleged gambling establishment. When questioned about it, he seemed sincere to me.

Q. Well, in view of your experience in this branch of law, both on the Crown's side and the Defense side, where would the slush fund be?

A. I don't know.

Q. You don't know?

A. I have always understood there was some type of slush fund to reward people who gave information.

Q. On what basis?

A. On the basis if they did some service to the police, in an honourable way, that they would be rewarded.

Q. And assuming there is such a thing in existence, would the reward be very great?

A. I wouldn't think so.

Q. No. Based on your experience, you know it wouldn't be very great, if there was any reward at all.

A. That is right.

THE COMMISSIONER: Q. That is, rewards for giving information?

A. Yes.

Q. Not rewards for coming in and giving perjured evidence?

A. I didn't mean to suggest it was brought to our attention that perjured evidence would be given.

Q. That was the inference I thought you were leaving. This man came in and said there were improper inducements held out?

A. Yes.

Q. For him to go to Windsor and he would be given the key to the city?

A. Yes.

Q. And the police would let him do what he liked?

A. Yes.

Q. What was the nature of the improper inducement?

A. In that he would be paid money and his conduct in whatever he chose to be engaged in, would not receive the attention the police would ordinarily take, both in Detroit and Windsor.

Q. That is what this man Miller told you?

A. Yes.

Q. And who was making the inducements

or holding out the inducements to him?

A. Sergeant Hatch, with whom he said he had been in contact on several occasions, in person, at which time these alleged inducements were held out to him.

THE COMMISSIONER: Go ahead, Mr. Wilson.

MR. WILSON: Q. Now, who were present? I just want to be quite clear about who were present, when this statement or information from Mr. Miller was discussed amongst you.

A. I would say that McDermott would probably be present. I would say -- I know I spoke to the man myself. I would say Mr. Gardner was present and who else might be present, I don't know. I don't recall.

Q. Now, at that meeting, what decision was arrived at? What course of action was decided upon?

A. As I recall it, I don't think I was at a meeting when a course of action was decided upon, but sometime after that I recall that certain steps were being taken to investigate this matter.

Q. As one of the counsel engaged in the matter, did you not receive further word as to what steps were taken?

A. Oh, yes, I know everything that happened.

Q. Then exactly what was reported to you as to the steps that were taken, as a

result of the meeting you just referred to.

A. It was reported to me, they intended ---

THE COMMISSIONER: By whom?

A. I would imagine McDermott, although I couldn't be sure.

Q. All right.

A. That Mr. Rose, Walton C. Rose was to go to Windsor and that he was to meet this gentleman, whatever his name might be, and to satisfy himself as to whether or not such inducements may have been held out to his person, and that if he felt this bore investigation, that he would arrange to have this person contact Sergeant Hatch and indicate that he didn't want to give evidence himself, but he had a friend whose name was Mushy Rose, who was, I think, in the shirt business or garment business, from New York or something such as that. He wanted to discuss with him the possibility of his giving evidence. Then a meeting was held.

Q. Excuse me. You were to go to Windsor to find that out, were you?

A. That is where Sergeant Hatch was. We couldn't ask him to come to Toronto. Mr. Rose came to Windsor. Mr. Rose, along with this gentleman, went to meet Sergeant Hatch, and the report I got back was, Sergeant Hatch stated:

"Rose, tell me, will you give evidence
"against this club?"
Mr. Rose said:
"Before we discuss any evidence to be
"given against this club, I want to
"know what is in it for me."
And Sergeant Hatch said:
"It is your civil duty to see that
"justice is done and that is all that
"is in it for you."
Mr. Rose inquired about him receiving money for favours and he was told he was not, and I am told the meeting ended very shortly after that.

MR. WILSON: Q. You say it was McDermott, you think, who told you the plan of action?

A. That may be. I don't recall. It was well known, I think.

Q. Now, after this first meeting you spoke about where information was received from Miller, or whatever his name was, did you report this suggestion of some improper inducement being held out, to either the local Crown Attorney or the Attorney-General's Department?

A. No.

Q. Did you consider that it was your duty, as a solicitor, to bring such a matter to the attention of either the Crown Attorney or the Attorney-General's Department?

A. I think we were anxious to establish whether such things were taking place before we

did it. Obviously, if that had been done, the type of person that would do that, would obviously not admit it to the Crown Attorney.

Q. Just tell me this; did you have more than one meeting to discuss this plan of action?

A. I don't recall, sir.

Q. And this was prior, of course, to the actual appearance of the accused in Court?

A. Yes sir.

Q. And how many days were you in Windsor or Detroit at that time, with these other lawyers, getting ready for the hearing.

A. Several days. I couldn't say how many.

Q. And did Joseph McDermott indicate to you at that time what his interest in the Roseland was?

A. No, sir.

Q. All you knew then, in the case of the Roseland club was that he had an interest which he was demonstrating by sitting in with Counsel for the accused and plotting the strategy and so on, but he didn't say what actual interest he had in the club, I take it.

A. He had obviously a very real interest in the outcome of the case. Now, whether that was because of his interest actually in the club or in the operators of

the club, I don't know.

Q. You weren't gullible enough to think he would go up to Peterborough to look after the interests of gamblers there, and go down to Windsor and look after the interests of gamblers there, just because they were gamblers?

A. No, there would have to be something more than that, I would think.

THE COMMISSIONER: Q. Did he seem to know Giacalone pretty well?

A. I don't recall, my lord. My impression was that he knew him.

Q. Rather intimately? Intimately enough that you were all having dinner together, in any event?

A. Yes. Now my impression was that they knew each other but I really couldn't say, my lord, because, as I recall, I think Mr. Rose was there at the time and we had dinner, and as I recall, Mr. Rose and I left. I am not just sure about that. I recall the fact that the case was discussed, but I can't recall what was discussed about the case, and the only positive recollection I have, as I say, is the fact that this Mr. Giacalone was securing tickets to the World's Championship Football game the next day in Detroit.

MR. WILSON: Q. What was Mr. Louis Herman's particular interest in this matter?

A. My understanding was that he was in possession of the charter and other legal data that would be required to be put forward by the accused to show they were a chartered club and he would be a witness for that reason.

Q. And he was there for this couple of days' preparation that you speak of?

A. I recall his arriving in advance of the date of the trial, and possibly a day or two, but that is all I can recall.

Q. At the time of these meeting you speak of in Detroit, Mr. Walton Rose was associated with Mr. Louis Herman, was he not?

A. I know the firm was called Herman, Moses and Rose, and I know at some stage Mr. Rose left that association. I would presume at that time that he would be associated with Mr. Herman.

Q. Do you know, if they were not associated, who was Mr. Rose acting for?

A. Who?

Q. Yes, Mr. Rose.

A. As I understand it, he came to investigate this complaint of improper inducements.

Q. You mean, you had the meeting and then sent for Mr. Rose from Toronto, or was he there?

A. No. As I say, I don't recall being present when this decision was made, but

I recall hearing afterwards a decision was made to investigate this matter, and it was thought Mr. Rose might be an appropriate person, and I think he was asked to come from Toronto for that purpose.

Q. Did you attend before the Magistrate when these charges came up for hearing?

A. Yes.

Q. On behalf of your client, did you then plead guilty?

A. Yes, sir.

MR. COMMISSIONER: Q. Who did you plead guilty for?

A. I am almost positive it would be Finnegan, my lord. I think Mr. Gardner had Mr. Scott. And as I recall, Mr. Martin acted for the steward and Mr. Cohen acted for another person. I just forget his connection.

Q. Who is Scott?

A. Mr. Scott, the lawyer.

THE COMMISSIONER: That is the first time his name has been mentioned.

MR. WILSON: Q. We have had a lot of Scott's but not one down in the Windsor area.

A. Mr. Allen. I am sorry, my lord. Mr. Allen acted for Leo Finnegan.

THE COMMISSIONER: Q. I thought you acted for Finnegan?

A. I am sorry. He acted for Gardner and I acted for Finnegan and Mr. Martin for the

steward and Mr. Cohen for the other person.

Q. What is the name of the steward?

A. I don't recall. Mr. Amodeo was the other person, I recall, but I think he was a parking lot supervisor. Then there was the steward Mr. Martin acted for, and I don't recall his name.

Q. Cohen acted for Amodeo?

A. Yes, my lord.

Q. Now, who pleaded guilty?

A. Finnegan and Gardner who were the principals, apparently, in the club, pleaded guilty and the Crown withdrew the charges against the other two.

MR. WILSON: Q. I think the steward's name was Lloyd James Johnson.

A. It may have been.

Q. Now, who paid your fees in connection with that particular matter?

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A. I would say Mr. McDermott. There is a remote possibility that Finnegan did, but my best guess would be that McDermott did.

Q. Now, was Vincent Peeley in any way involved in the preparation of the defense in these charges?

A. I don't recall his participating in this at all.

Q. And I turn now to the Frontier Veteran's Association club in Bertie Township.

THE COMMISSIONER: Will you come back to

the Windsor area at all, then?

MR. WILSON: With this witness?

THE COMMISSIONER: Yes. Does the word "mortgage" mean anything to you?

MR. WILSON: Oh, that. I will be coming to that. I have that, Mr. Commissioner, but I didn't have Windsor in my mind in connection with mortgage.

Q. Maybe now that we have mentioned it, I might just deal with it now that it is in the Windsor area. Now, there is a mortgage which was registered in the Registry Office, a mortgage from John F. and Bertha Gardner, mortgagors, to David G. Humphrey, mortgagee, which is dated May the 5th, 1958, which was for the sum of $15,000 and it covered a property in the city of Windsor, being composed of Lot 29 and the southerly half of Lot 28 on the east side of Bridge Avenue, according to registered plan 369. The principal sum of $15,000 to become due and payable on the 1st day of May, 1975.

THE COMMISSIONER: What was that?

MR. WILSON: 1975.

Q. That mortgage was registered in the Registry Office, in the Registry Division for the County of Essex on the 12th of May, 1958 as instrument number 176812. The mortgage was prepared, according to the reference on the back, by ~~Mr.~~ Messrs. Humphrey and Locke, 12 Richmond Street East,

Toronto, Ontario.

Now, would you just tell us what you know about --- I take it, you are the David G. Humphrey mentioned.

A. Yes, sir.

Q. Now, will you just tell us how you came to take a mortgage for $15,000 from John F. and Bertha Gardner.

A. Yes, I will. Mr. McDermott and possibly also Mr. Feeley, although I don't know, had some financial dealings with Mr. Gardner.

Q. And that Mr. Gardner, John F., is the person we have heard described?

A. The accused.

Q. The accused in the case you were defending?

A. Yes.

Q. And also known as Curly Gardner?

A. Yes. Apparently, Mr. Gardner had a home and somehow involved in the financial transactions between McDermott and Gardner, a mortgage was to be put on this property to protect Mrs. Gardner against Mr. Gardner since he was a compulsive gambler, and they asked me would I put, or allow, this mortgage to be put on their joint home in my name and, at the same time, I believe, execute a discharge of it, discharge of the mortgage and give it to them.

THE COMMISSIONER: Q. To whom?

A. To McDermott and possibly Pooley, so they might give it to Mrs. Gardner so that she would be protected against her husband's gambling. I agreed to do this and the mortgage was executed and in the lawyer's list, I picked out a lawyer whose name escapes me in Windsor, and I believe I phoned him and told him I had forwarded a mortgage and so forth, and asked him to register the mortgage on the property IN and to send me his account, which was done. I don't recall who the lawyer was. I picked him out of the legal directory for Windsor.

MR. WILSON: Q. Did you receive the sum of $15,000 or any part of it?

A. No, that was just a straw transaction to encumber the property so Mr. Gardner couldn't do anything to impair the home.

THE COMMISSIONER: Q. You said, "a straw transaction". I thought you said they had some financial dealings?

A. I don't know the dealings between them. As far as I was concerned it was a straw transaction.

MR. WILSON: Q. Did you say you prepared a discharge at the same time?

A. I believe so. I know at some stage a discharge was prepared and given to --

I believe, McDermott, with a view to seeing it got to Mrs. Gardner.

Q. And no money changed hands at all?

A. Not as far as I was concerned.

Q. Did you turn over the discharge to Mr. McDermott at the same time you dealt with the registration of the mortgage?

A. I believe so, but I wouldn't be entirely sure about that, but I know at the time the mortgage was executed it was with the understanding, of course, when called upon, I would execute a discharge without fee or without any compensation, and my best recollection is that they were done simultaneously.

Q. Did you have anything to do with the discharge of that mortgage?

A. No.

Q. Nothing at all?

A. No, nor the registration of the mortgage, except to instruct a solicitor in Windsor to do it on my behalf.

Q. I understand you executed a discharge and handed it over to McDermott, and after the original mortgage was registered and you had handed over the discharge to McDermott, you had nothing further to do with the transaction.

A. Not that I recall, unless a discharge were executed at a later date.

Q. Well, I show you a photostat of

a discharge of that mortgage, and does that appear to be a photostat of your signature?

A. Yes sir.

Q. I notice the discharge is dated the 21st day of November, 1958. The date having been changed from the 21st of May. I note that the change to November is initialled:

"D.G.H."

Is that a photostat of your initials?

A. It appears to be, sir.

Q. Yes. And that the affidavit of execution is taken by one Mary Evelyn ---

A. Lochrane.

Q. Lochrane. Who was she?

A. She was a secretary in our office.

Q. In your office?

A. Yes.

Q. Who did she swear that affidavit before?

A. It appears to be my partner's signature.

Q. Locke?

A. Yes.

Q. Do you agree with me the date of execution is the 27th of November, 1958?

A. Yes sir.

Q. And that discharge was registered in the Registry Office in the County of Essex on the 9th of December, 1958, as number 189761?

A. Yes sir.

Q. Now does that help you to refresh your memory as to the date when the execution of the discharge took place.

A. Yes

Q. And in what way does it help you?

A. It appears as though it was originally prepared in May but not executed until November.

Q. And was it kept in your office?

A. I don't recall, sir.

Q. And do you recall under what circumstances you completed the discharge and had it registered? On whose instructions?

A. I can only presume it would be upon McDermott's request. I certainly wouldn't do it at Mr. Gardner's request.

Q. But you didn't receive any money at the time?

A. No sir.

Q. You turned it over?

A. No sir.

Q. And I take, you didn't communicate with Gardner or his wife at that time?

A. No sir.

Q. Now ---

A. In fact, it must be that the solicitors that I instructed to act in Windsor, must have secured their signatures on the documents because I don't recall seeing either

Mr. ~~M~~ Gardner at that time, and I don't think I have ever met Mrs. Gardner.

Q. There is no question that the property, at the time this mortgage was put on in May of 1958, was in the joint names of John F. Gardner and his wife Bertha?

A. I have no knowledge of that. I think if I looked at the deed. It was a joint mortgage. I would presume it was jointly owned. I don't know. I presume the two of them signed the mortgage.

Q. If what I say is correct, apparently they were the mortgagors and there would be some measure of protection for her even if her husband was, as you say, a compulsive gambler.

A. I presume so.

Q. Now, what other secretaries did you have in your office in 1958, apart from the one you have referred to?

A. Margaret Benson.

Q. Margaret?

A. Benson, B-E-N-S-O-N-

Q. Were there just the two?

A. There would be part-time people coming in an d out. I had very little to do with the secretaries. I know Mary Lochrane was our secretary for a number of years and Margaret Benson for a number of years, and another lady, whose name was Mona, just came

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in from time to time, and others.

Q. In 1958, which of these girls did your work?

A. Both. I wouldn't use one tenth of a secretary a week. That is about as much as I would do. If I had anything to do I would ask either one of them to do it.

---Whereupon the Hearing adjourned at 1:15 p.m. until 2:15 p.m.

AA/AMD/1

---On resuming at 2.20 p.m.

---The witness resumed the stand.

MR. WILSON: Q. When did you first have anything to do with the Frontier Veterans Association in Bartie Township?

A. I just couldn't recall the date. I think the first thing I had to do with that was to go to the Chief of Police whose police force were raiding that club and complain to him about what I considered to be an abuse of the process of law and I have no idea of the date of that at all.

Q. And on whose instructions did you see the Chief of Police? That would be Chief Constable Johnston, would it not?

A. Maybe. I don't recall his name.

Q. And on whose instructions did you see him?

A. Well, I would go there not on instructions but of my own volition, having decided that that would be the first step to take. I would be interested in that case most probably, although I don't specifically recall, by being appraised of the situation by McDermott.

Q. Well, you didn't go and make representations without some client, I take it?

A. No. I spoke to, as I recall it, two people that were somehow, I thought, connected with the club. One of them is a

man I had met, I think, once before,"Chief" Borelli, and the other was a man known to me as "Ginsey", and I think it was "Ginsey" who gave me most of the information. I believe he had a calendar and had marked on the calendar the number of raids and when the place was raided, and had told me how the police were, in his view, persecuting this club.

Q. Who is the Borelli you speak of? Felix Borelli?

A. I think that is his first name. I know him as "Chief" Borelli, which is his "Chief" nickname.

Q. Where did you have a meeting with "Chief" Borelli?

A . I imagine it would be at Ginsey's home, or where Ginsey lives.

Q. How do you spell Ginsey?

A. I don't know.

Q. Where was his home?

A. He lived in a home that was fairly near this club, and I believe it was a boarding house and he lived with the people there. He was Jewish and the people with whom he lived were Jewish, but I don't think they were his parents. That is the way it struck me.

Q. You were doing this at the request of Joseph McDermott?

A. He originally drew this to my attention, asked me if I would speak to these

people and do something about this club, yes.

Q. And then did he say what the nature of his interest was in that particular club when he asked you to do this?

A. No, I didn't ask and he didn't say, except he was interested.

Q. And what was Ginsey's connection with the Frontier Veterans Association Club?

A. I was under the impression that he was sort of the steward, but I don't know. I recall hearing somewhere, reading the paper that he wasn't, somebody else was supposed to be the steward.

Q. And what was Borelli's connection? --

THE COMMISSIONER: Q. Did McDermott tell you to go and see Ginsey?

A. I think so.

MR. WILSON: Q. And what was Felix Borelli's connection with the Frontier Club?

A. I don't know. He was somehow, I believe, connected with the club, and what that connection would be I don't know.

THE COMMISSIONER: Q. Did McDermott tell you to go and see him? In other words, how would you know enough to go and see either Ginsey or Borelli?

A. Well, as I recall it, most probably an appointment would be set up with them through McDermott, and I would go to Fort Erie and I would meet them by pre-arrangement.

Q. McDermott gave you the information as to whom you should see?

A. Yes.

MR. WILSON: Q. Did he say whether or not an appointment had been arranged with Johnston, or with the Chief Constable?

A. I don't recall that. My best guess would be that I would seek out Chief Constable Johnston.

THE COMMISSIONER: Q. Did McDermott go with you?

A. No, I don't recall his going with me, no.

MR. WILSON: Q. Well then, you saw Ginsey, you talked to Ginsey and Borelli before you saw Chief Constable Johnston?

A. Yes.

Q. And did you see Johnston on the same trip?

A. I don't recall. It seems to me I spoke to the Chief Constable on more than one occasion, and I most certainly spoke to Ginsey and Borelli on more than one occasion.

Q. Well now, can you tell us approximately when this occurred?

A. The only way I could date it with any accuracy is that this would be in the months preceding the closing down of that club, because after all my representations were made the club was closed down.

Q. Where did your meeting with the Chief Constable take place? --

THE COMMISSIONER: After all what?

THE WITNESS: I made a number -- after all --

THE COMMISSIONER: Just a minute, please. Mr. Reporter, would you read me that last answer after "after all".

THE REPORTER: " . . . after all my "representations were made the club "was closed down."

THE WITNESS: That is right.

MR. WILSON: Q. Well, was it a matter of months prior to the closing down of the club that you had this meeting with Chief Constable Johnston?

A. My best estimate would be that the representations I made commencing with the Chief Constable would be over a period of a month, six weeks, possibly longer.

Q. And who were -- this meeting took place at the Chief's office?

A. Yes.

Q. And who else were present?

A. Well, his office, as I recall, is an area where other police officers are on duty. I think there would be other police officers around. Whether anybody came from the club with me or not, I am not sure, and I would be inclined to think not.

Q. Tell us the substance of your

discussion with the Chief?

A. Well, I indicated to the Chief Constable -- and I may have had with me the calendar -- that they had seen fit to raid this club it seemed at least once a night and sometimes twice in a night, and the manner in which they conducted the raids indicated that they didn't hope to get any evidence but were merely harassing the club, they having determined that this was an illegal gambling club, and that I thought it unfair of them to continue to take search warrants unless they felt that the execution of a warrant would produce some evidence, because otherwise it was merely abusing the process of the law to shut down a club that they had found guilty in the police station and they didn't have sufficient evidence to take before a Court of law.

THE COMMISSIONER: I don't quite understand that.

THE WITNESS: There was a club in operation that the police felt had gambling.

THE COMMISSIONER: Q. Was being operated as a gaming house.

A. Then, in order to get a search warrant they would have to go to a Justice of the Peace and give evidence, I believe, under oath, or some statement to the effect that they believed illegal gambling was going on, and they believed if they were given an opportunity

to search these premises that evidence would be had that may substantiate their suspicions. Now then, over some lengthy period of time they continued to raid the place, as I say once a night, and to line all the people against the wall and gather their names and addresses, and generally dally on the premises for a considerable period of time and then leave, and this was done sometimes once, sometimes twice a night. It seemed after having done it on numerous occasions that they couldn't honestly say they felt they could get evidence by executing a search warrant, and, therefore, the only reason they would want to execute a search warrant would be to harass the club out of business.

Q. I don't think that follows at all.

A. In the same way ---

Q. They may not have succeeded in getting the evidence.

A. If they took, say, nominally Club "X" in Toronto, and for whatever reasons they ---

Q. Never mind Club "X", take this club.

A. Well, after a certain period of time members, I suppose, wouldn't wish to attend a club where they knew they were going to be lined up against a wall and searched, and so on and so forth, and the people didn't come any more.

Q. Those who were going there for the purpose of gaming wouldn't go there any more?

A. We felt if they had evidence of gaming

they would take the case to Court.

Q. They didn't succeed in getting the evidence?

A. No, but they succeeded in closing the club.

Q. And it was a gaming club, wasn't it?

A. I don't know. The police seemed to think so, but they didn't have any ——

MR. WILSON: Q. What did Gimsey and Borelli tell you about the character of the operations of the club?

A. As far as they were concerned it was a nice, friendly place where people came there and enjoyed the social functions, but I wasn't concerned really whether it was a gaming house or not.

THE COMMISSIONER: Q. I beg your pardon?

A. I say I wasn't concerned whether it was a gaming house or not.

Q. What do you mean by that?

A. It was immaterial to me whether it was a gaming house or wasn't a gaming house, because I was only concerned with the methods used by the police to try and persecute them.

Q. If it was a gaming house, their methods were quite acceptable?

A. I don't think so, my lord, with respect.

AA/2

Q. You think not?

A. No, because the police might have for any reason they decide, pick out any club, decide

it is a gaming house and raid it every night and put it out of business, and it may not be a gaming house.

THE COMMISSIONER: Well, I understand what you say.

MR. WILSON: Q. Well, what was the Chief's reaction to your representations?

A. He was very hostile. He wasn't prepared really to discuss it with me at all and, as I recall, indicated that they would decide when they were going to raid the club and no lawyer from Toronto was going to come down there and tell them how to conduct their investigation of an alleged gaming house. That was, generally speaking, his reaction to my argument.

Q. Now, you also —

THE COMMISSIONER: Q. And did you report that to McDermott?

A. Yes, I would report that to McDermott.

Q. No, but did you?

A. I have no recollection of actually reporting it, but I presume that I did.

Q. He sent you over there for a purpose and I suppose you would tell your client whether you accomplished your purpose or not?

A. I presume I would, my lord.

MR. WILSON: Q. Did you also on the instructions of McDermott appear before the Board of Police Commissioners for Bertie Township?

A. I wouldn't say I appeared on anybody's instructions. I would say that having received instructions to proceed to do what I can to stop what they considered to be an abuse of the process, I would probably --

Q. When you say "they", who is "they"?

A. Ginsey and Borelli and McDermott. I probably would have decided myself that the next proper course of action would be to complain to the Board of Police Commissioners about the conduct of the officers.

Q. Well, did you, in fact, attend? I believe it was at Ridgeway and appear before the Board of Police Commissioners?

A. Yes, I did.

Q. And who accompanied you on that occasion?

A. I don't recall. I recall reading recently in the paper that somebody was supposed to be with me, but I don't recall anybody being with me at all. I recall making representations.

Q. You don't recall a man named Ross being with you, do you?

A. It may be, but I don't recall.

Q. You don't recall a white Cadillac being around at the time?

A. No.

Q. Would a white Cadillac be of any significance to you?

A. The white Cadillacs I would know, I

think both McDermott and Feeley had white Cadillacs. One was a convertible and one was not a convertible.

Q. Was the meeting of the Board of Police Commissioners held on the second floor of a building in Ridgeway?

A. Yes, as I recall it is in the police building and over the police department.

Q. Did a person who had accompanied you get into the building and part way up the stairs, or to the door of this building, and then not go up with you to the meeting?

A. That may have happened, I don't know.

Q. And could it have been McDermott?

A. Could it have been McDermott? It could be, but my best estimate would be that he wasn't at that meeting.

THE COMMISSIONER: Q. How did you get to the meeting?

A. Or that he was present that evening at all, that would be my best recollection, although it is possible.

MR. WILSON: Q. And who were the members of the Board of Police Commissioners that you appeared before?

A. The only one I knew was the Magistrate, Magistrate Roberts, Johnston Roberts. And then I believe there was the local County Court Judge, and I believe the local mayor, or reeve of the township.

Q. Exhibit 106. Now, what representations

did you make at this meeting?

A. Well, I think I started off by indicating that I wasn't there to argue that this place was not a common gaming house, and that was not part of my argument before the Board of Police Commissioners, and that for the sake of my argument before them we could presume that it may be a common gaming house or gaming establishment, but that I felt that for the police to continue to raid these premises nightly without any hope of securing evidence upon which they might base a Court case, and without their, at that time, having any evidence to substantiate their suspicions, that continued indiscriminate raiding of this premises was, in my view, an abuse of the process of law available to police officers, and that it should be discontinued unless and until the execution of a search warrant was expected reasonably to produce some evidence.

THE COMMISSIONER: Q. Even on the assumption, as you put it a moment ago, that this was being operated as a gaming house?

A. Yes, my lord.

MR. WILSON: Q. And we have been told by other evidence that that meeting occurred on February 13, 1958. Does that coincide with your recollection?

A. That may be.

Q. And did the Board indicate their position at that meeting?

A. As I recall it, I think they took my submissions under advisement and indicated that they would advise me. That is my recollection.

Q. And did they advise you subsequently?

A. Yes, somehow I received information that they chose not to accede to my request and would allow the police to proceed as they saw fit.

Q. And did you report that to McDermott?

A. I presume so. I have no recollection of the actual reporting, but undoubtedly I did.

Q. And at that meeting you had with Chief Constable Johnston, was it later in point of time than your appearance before the Board of Police Commissioners?

A. I think I had more than one meeting with the Chief Constable. There may have been some before, and there may have been some afterwards.

Q. At one of the meetings you had with Chief Constable Johnston, you say you guessed you were not wanted there, or words to that effect?

A. In his office?

Q. Yes.

A. I may have, I don't recall, but, as I indicated earlier, his attitude was quite hostile.

Q. Was that the extent of your activities so far as the Frontier Club was concerned, the meeting with the Board and the meetings with the

Chief Constable?

A. No, I think it occurred to me that we discussed at one time applying for an injunction.

THE COMMISSIONER: Q. Who is "we"?

A. It would be certainly McDermott, and possibly Borelli and possibly Ginsey. My recollection is that I think McDermott went to seek the advice of another solicitor to see whether an injunction could be granted or applied for against the police. I have a sort of a recollection that he went to see Joseph Sedgwick as to whether he would try and get an injunction against the police. I recall going to the Attorney General's Department, and I recall, I think, discussing with somebody there, I think Mr. Bowman, reiterating my complaints and generally complaining about what I still considered to be an abuse of the process, rightly or wrongly.

Q. Well, at all events, no action by way of injunction proceedings was taken?

A. No. And then the last I recall about it is I was speaking to Magistrate Johnston Roberts, and I recall his saying to me something to the effect that he thought my representations were fine, so forth and so on, but that I had better advise my clients that they might as well close the club down because it would be continued to be raided until they quit, which

information I communicated to the various interested parties. I think, in fact, what he said to me, the manner in which I presented my argument and so on of admitting that it was, or might have been a gaming house, and presenting my legal argument, I think he put it gave the club a million dollars' worth of free publicity, but the patient had been operated on and the operation was a failure, and the patient died, and they might as well go out of business right away because they were going to be subjected to this treatment until they did.

Q. Did you charge for your services with regard to the Frontier Club as a separate item, or were you on a retainer basis?

A. No, I wasn't on a retainer basis. I presume I would charge something, and I presume McDermott paid me something. How much, I don't know.

Q. You don't need to presume. Surely you don't go around making representations for clients and not charging them?

A. I wouldn't think so.

Q. Now, turning to the Ramsay Club --

THE COMMISSIONER: Q. Do you keep a record of these payments in your books?

A. The manner in which I would record the payments would be that in most instances I would give money to my partner with an indication to him as to the source of this money, and that

he would then give it to the girl who was in charge of the banking and, in some instances, I would give it to her directly.

Q. It would go through your books?

A. Yes.

Q. Have you got them?

A. Yes, we still have thebooks.

MR. WILSON: Q. And then the payments made by McDermott and Feeley, or either of them, or on their behalf, would they be in cash, by cash or cheque?

A. They would always be in cash.

Q. Always be in cash?

A. Yes, sir.

Q. Now, turning to Old Ramsay Club, you are familiar with that operation in Niagara Falls?

A. Yes, I have heard about it, sir.

Q. And you heard about it through McDermott and Feeley?

A. Yes, sir.

AA/3

Q. And can you tell us approximately, in point of time, when they first made any suggestions to you about any action you might take in respect of that club?

A. As I recall, it was about this time that they were being raided out of business that they complained -- I say "they", I mean McDermott, possibly Feeley, this person Ginsey, and probably Borelli too, that there was an alleged gaming house running in Niagara Falls that were not

being raided really at all, and they couldn't see why they were being raided out of business when this other alleged gambling establishment operated a short distance away and wasn't really being raided at all, and they were very annoyed about this and they felt they had been picked out for special treatment, and the other club, for some reason, was not.

Q. I think in the evidence we have been told that the Frontier Club finally folded around some time in July of 1958. Am I right in saying that it was prior to that time that McDermott and Feeley, or one or both of them, spoke to you about the activities of the Old Ramsay Club?

A. I would say it would be before and after.

Q. Both before and after?

A. Yes.

Q. Yes. And now, as a result of the discussions you had with one or both of them, that is with McDermott or both McDermott and Feeley, what action did you take in respect to the Old Ramsay Club?

A. I don't know that I took any action. I complained to anybody that would listen to me. I might have gone to the Attorney General's Department indicating to them that it seemed unfair to me that one club was being raided out of business when they had no evidence to

charge them, and that this other club was apparently operating wide open, as it was represented to me that it was.

Q. When you say you might have, in fact you did go to the Attorney General's Department, didn't you?

A. Yes.

Q. And who did you see at the Attorney General's Department?

A. My recollection is that it would be Mr. Bowman.

Q. And maybe I can help your memory by suggesting that it was around about June 3rd, 1958, that you did that?

A. It may be.

Q. Now, what was the substance of your discussion with Mr. Bowman?

A. Well, the substance of my discussion would be that it was —

THE COMMISSIONER: Q. Don't say "would be". I don't like that. It either was or it wasn't.

A. My lord, I just barely recall the meeting at Mr. Bowman's office, and I can only give my best estimate as to what the conversation was.

Q. That is what I want you to do.

A. My best estimate of the conversation is that I complained that it wouldbe unfair for the clients that I represented, who were connected with this club in Port Erie, to be raided out

of business when there was another suspected gaming house operating a short distance away that wasn't receiving any police attention at all to speak of, and it seemed unfair to me; bearing in mind that I think these people in Fort Erie always had told me that they might rear their heads again if the climate were suitable.

MR. WILSON: Q. I didn't follow that last one. Who was going to rear their head again?

A. The people who were connected with the club at Fort Erie had closed down just after a while because nobody came, because the only people who came were the police, and that just stopped their operation, but I had it in mind that if these police raids stopped, or if the climate were of a different nature than it had been when they stopped, they might start up again, sort of revive the club, as it were. This is only surmise on my part.

Q. I suppose the operation of an illegal gaming club always depends on the climate, doesn't it?

A. Well, I don't know. The climate isn't very good now, yet people are still being charged.

Q. Now, what did you ask Mr. Bowman to do?

A. I don't recall specifically. My best estimate would be I probably asked him to do something about seeing whether the allegations about this other club were correct, and what is

good for the goose is good for the gander.

Q. Did you have any further advice from Mr. Bowman as to what, if anything, he did about your representations?

A. I am sorry, sir?

Q. I say, did you have any further word from Mr. Bowman as to what, if anything, he had done about your representations in respect to the Old Ramsay Club?

A. No, I don't recall.

Q. Then what other steps around about that time did you take to further your clients' thoughts that it was unfair that the Old Ramsay Club should be allowed to continue in business free of raids of the type that were at that time being undergone by the Frontier Club?

A. None that I can recall, sir.

Q. You don't recall taking any further steps?

A. No, sir.

Q. Did you have any further discussions with McDermott or Feeley with regard to the Old Ramsay Club about that time?

A. I can't recall any, sir.

Q. Where did you spend your summer holidays in June and July and August of 1958?

A. Well, my late wife and the children would be at Lake Simcoe, and I would be going back and forth from Lake Simcoe. I don't recall -- I don't take summer holidays, as such.

Q. That summer did you spend any time --

THE COMMISSIONER: What summer?

MR. WILSON: This is the summer of 1958.

Q. Did you spend any time at all that summer in Algonquin Park?

A. No.

Q. Not even for a week-end?

A. 1958? The only time I recall being in Algonquin Park since the war -- when I was there at camp before the war, was once with Mr. Gibson, the Crown Attorney. That is the only time I recall being in Algonquin Park since the war.

Q. Do you know Inspector Stringer of the Ontario Provincial Police?

A. I know of him. I have never met him.

Q. You have never met him?

A. No, sir.

Q. You have heard, no doubt, of the Scott reports?

A. Yes, sir.

Q. That have been filed here as Exhibit 61. And in the sixth report, which is dated April 13th, 1960 --

THE COMMISSIONER: What is the number of that exhibit?

MR. WILSON: That is 61, Mr. Commissioner.

Q. Under the notation for April 12th, item 8, Constable George Scott reports a statement that was made to him by Constable

R.J. Wright, as he was at that time. Did you know Constable R.J. Wright?

A. No, sir.

Q. Had you ever met him at all?

A. Not to my knowledge, until afterhis arrest.

Q. Item 8 reads as follows:

"The brief on the Ramsay Club was composed "by D. Humphrey, P.C. Wright and others. "Thereafter it was forwarded to Art "Maloney, Federal M.P., who gave it "to James Maloney, present Ontario "Minister of Mines, and he in turn gave "it to District Inspector Stringer. "Inspector Stringer then turned the "brief over to Sergeant Anderson."

Now, did you have anything to do with the preparation of that brief, and before you answer that I will produce to you the original brief that has been filed as an exhibit here.

A. I have seen it.

Q. I want you to see this one. Exhibit 102. Will you give it to the witness, please. You have the original brief that has been filed here as Exhibit 102. I want you to look at that and tell me whether or not you had anything to do with the preparation of it?

A. No, sir.

Q. Have you read the brief?

A. I read it at the preliminary hearing

when it was entered as an exhibit, yes, sir.

Q. Now, did you give -- you will notice that in the brief there are references to company law, references to Section 174, I think it was of the Criminal Code at that time, and is now, I think, 246, or something like that?

A. I don't know.

Q. Those references that are mentioned, did you advise anybody on the legal points covered by the Companies Act and the Criminal Code which they might, in turn, have made use of?

A. Firstly, with respect, I couldn't advise anybody on the provisions of the Companies Act because I wouldn't know anything really about the Companies Act, and I didn't know that it had anything to do with charters insofar as the criminal sense is concerned. Insofar as the other section of the Criminal Code is concerned, I have discussed that with persons who may be suspect of having something to do with the preparation of this brief, to wit, McDermott, because McDermott is very fond of discussing legal points and fancies himself as quite knowledgeable in those matters. In fact, he has attended Court cases in every Court, including the Supreme Court of Canada, and undoubtedly I have discussed legal points of different cases with Mr. McDermott and it may be that I discussed with him that section.

Q. Section 174?

A. Whatever the number is relating to taking people —

Q. Well, there are two sections referred to, 168, if you will look at the bottom of page 1, and 174, which is referred to on the second page.

AA/4

A. Yes.

Q. Well, are you telling us that you would possibly have discussed those sections with Mr. McDermott because of his interest in such matters?

A. Yes.

Q. And they are, of course, both sections that relate to evidence and mode of proof?

A. Yes.

Q. And examinations after of found-ins, and so on, all pertaining to the operation of a gaming house?

A. Yes, sir.

Q. And you say that you might well have discussed those particular sections with Mr. McDermott?

A. I know that I discussed the one section with him with regard to when persons were alleged to have been taken before a Justice of the Peace, and so forth and so on, and he seemed interested in that, and he sometimes expressed the view that if this section were used by the police that it would probably put a lot of clubs out of business. I recall generally discussing that along with literally

hundreds of other legal points with him that he was interested in.

Q. Would he be interested in tangible prima facie evidence such as bars on the windows, and locked and bolted doors, and so on?

A. I would say that if anybody in Canada knew how to run a gaming house, it would be Joseph McDermott.

Q. And so that they would be matters that he would be interested in discussing with a solicitor from time to time?

A. Solicitors. I have heard him discuss these very points with at least five to ten other solicitors.

THE COMMISSIONER: Q. I was interested in something you just said.

If you don't mind my interrupting?

MR. WILSON: No.

THE COMMISSIONER: Q. If anybody in Canada could run a gaming house, it would be Joseph McDermott. Why do you say that?

A. Well, this club that was operated in Cooksville was, I suppose, notorious by reputation. I don't suppose that there would be half a dozen people in the metropolitan area who hadn't heard about it and knew that there was a gambling establishment running out there. The police had tried for years, literally years, to put this place out of business, and in order to stay in business one has to have some idea of

the rules of the game so that one is able to stay one step ahead of the police and to thwart them in their efforts to close it, and then I had been told, myself, that he was the prime operator of this Cookeville club, and the success of the Cookeville club under his leadership would, I think, most certainly qualify him as an expert in the field.

Q. He didn't confine his operations to that. He had set up almost an empire in the province, hadn't he?

A. I know that is a suspicion.

Q. It is not a suspicion at all. You have told us about a lot of it. He had the one out on the Centre Line; he was interested in the one in Peterborough?

A. That is right.

Q. He was interested in the one in Niagara Falls?

A. I am sorry, sir, I don't know that he was interested, insofar as I am concerned, in the Niagara Falls one, since, to me, he was disinterested. I have never heard himdiscuss Niagara Falls in the view that he was interested as a participant.

Q. Well, Fort Erie?

A. Fort Erie, yes.

Q. And the one in Windsor?

A. That is right.

Q. Were there any others in Ontario

that you know?

A. As gambling houses?

Q. Gaming establishments?

A. No, not that I know of.

Q. Then he had them all?

A. Well, he was interested in them all.

MR. WILSON: Q. How would you rank Vincent Feeley's ability to run a gaming house as compared with Joseph McDermott?

A. I just don't know how to rate gamblers. Feeley would have a considerable knowledge of this type of activity, and he and McDermott were in constant touch with each other, and I suppose the knowledge that one had would be imparted to the other, and he would probably be equally knowledgeable.

THE COMMISSIONER: Q. Then he had associations even outside Ontario, didn't he?

A. The only associations that I know of are the associations I indicated to your lordship earlier with this fellow Dominic Corretta and Billie Giacalone. If they were associated --

Q. Just excuse me.

A. I am sorry, sir.

(Page 3590 follows)

THE COMMISSIONER: Now, what do you know about their operations? Who are they? What type of men are they?

A. Well, as far as Coletti is concerned, I don't - I don't recall his name until after Mr. Wintermeyer's speech, and so on. I inquired about him from McDermott, and McDermott said that he met him when Coletti was a resident student at St. Michael's College here in Toronto, and that he had known him through the years, and I - I just presumed from other things I heard, possibly from Sergeant Hatch, or some of the police officers, that he was a gambler in Detroit.

THE COMMISSIONER: Was he any sort of partner for - what is the fellow's name? Giacalone?

A. Well, I didn't know certainly that it was.

THE COMMISSIONER: Giacalone was the man with one leg.

A. He had two legs when I saw him.

Q. You didn't know that he had an artificial leg?

A. No, sir.

THE COMMISSIONER: Did you ever hear of Riccoletti?

A. As I explained previously, my lord, I never met him.

THE COMMISSIONER: Never heard Mr.

McDermott mention him?

A. No.

THE COMMISSIONER: Or where he worked?

A. No, sir. I think I can just say this, to assist your lordship. As far as the American connections are concerned, in preparation for the Windsor trial, in discussing this with all these different people, it is my thought the way that these clubs at the border was run was that Canadians would secure the premises, and that they would supply workers in the club, and that no --

MR. MacKINNON: I am sorry?

A. Workers, that no Canadians would be allowed in the club, and it would only be Americans that were allowed in the club, presumably on the theory that if Canadians went in and lost a lot of money there would be lots of complaints, whereas the Americans would complain to the American people, and then in order to get the American gamblers in there to gamble you would have to get American professional gamblers to come there, a flock of gamblers to come over into the border club, and that is my recollection of it. I understood, from what little I went into the -- in the Fort Erie club, that that was the same thing; they didn't allow Canadians in, and in fact, I think that was one of my representations to the Police Commissions, they ma shouldn't

concern themselves too much about it, because no Canadians went into it.

THE COMMISSIONER: Well, then, just transferring that to Windsor, Giacalone in Detroit, having a stake in the Windsor club, he would be one of the big gambling operators, and would no doubt have connection with gamblers.

A. Yes, I would think so.

Q. And he would bring them over into this country?

A. Yes, I would think so.

THE COMMISSIONER: Well, then, the same pattern was put into operation in Niagara Falls?

A. I presume so.

THE COMMISSIONER: Or Port Erie?

A. I think that same pattern really was in operation in Port Erie.

THE COMMISSIONER: This man Nicoletti would fit into that pattern.

A. That may be so, my lord. I only met him - I know I have met him in person in the United States. That was to do with the Port Erie club.

MR. WILSON: At any time when you were in the Centre Road Veteran's Club at Cooksville, did you see Giacalone there?

A. No, sir.

Q. Now, coming back to this brief, Exhibit 102, did you ever direct any person to

do any research on the law pertaining to social clubs?

A. I would say on numerous occasions.

Q. On numerous occasions?

A. Yes. I have a lot of thosecases, and often times I would ask law students or perhaps other lawyers, if I were busy on other things to do it.

Q. Well, you said yourself you were not a company lawyer?

A. No.

Q. And so that, if you wanted information about the law, say the Federal law, Dominion Companies Act, how it operated with reference to social clubs, you would ask somebody else to do that work for you, wouldn't you?

A. Presumably, yes.

Q. Yes, so that by reason not necessarily of your own research but the research of others you would be familiar with the Companies Act, both the Dominion Companies Act and any Provincial Statute which governed the operation of social clubs.

A. Well, if I directed anybody to give me a brief on that, I just don't recall it.

Q. Umhum.

A. In fact - sorry.

Q. And did you ever discuss the Federal law with regard to social clubs, that is

Dominion Statute, with Mr. McDermott or Feeley?

A. Yes. Yes, I did.

Q. And you say he was a bit of an amateur lawyer himself?

A. Well, he knows more criminal law than I do, and if you don't believe me you can ask him when he gets here.

Q. Well, now, having in mind the discussions you have had with McDermott -

A. Yes, sir.

Q. - and having read the brief, would you say that he was capable of producing it?

A. Capable?

Q. Capable.

A. Yes.

Q. You would say yes.

A. As far as the legal problems are concerned, it is apparent that the brief is essentially not a legal brief, but a factual brief, and those legal problems that are dealt with in the brief are certainly within McDermott's scope, I may put it that way.

Q. And when did you first become aware of the existence of this brief?

A. There was talk going around and I say talk going around. The first positive recollection I have of discussing it is when I was in Cooksville, not at the gaming house but in the Court House, and I had a case against

the - in which the Ontario Provincial Police Anti-Gambling Squad was prosecuting some people running a fair or something of that sort there and I remember discussing it with the police officers at that time, and I say yes now that I had heard about it before that, and it runs in my mind that the first time I heard about it was when Feeley disappeared, but I have discussed that with McDermott, and McDermott does not have the same recollection of it I do.

Q. Now, this meeting ---

THE COMMISSIONER: Just a moment. Having heard about it when Feeley disappeared?

A. Yes, my lord.

THE COMMISSIONER: Well, did he disappear some time?

A. Yes, my lord.

THE COMMISSIONER: Just a moment. When was that?

A. Well, that is hard to say. He was living west of the Credit River at that time, in an apartment justwest of the Port Credit River, and I recall McDermott phoning me and he was very agitated. He said Feeley was last heard of on Sunday afternoon, had dinner at some person's house, and he hadn't been heard of for some time, all night it was in fact in the morning. He phoned around, couldn't locate him. If memory serves me correctly, he was still in doubt of two things, and McDermott phoned me next day, and

what - he was very very concerned about it, and I remember driving out to his house, discussing it with him, and we went to his apartment, that is Feeley's apartment, and we called - we got in the apartment. I think we gave some young boy a dime to go through the mailbox, and we went in and Feeley wasn't there, and McDermott at that time said something in connection with the brief. That is my best recollection, that some people Feeley, that he brought up in the brief were pretty annoyed with him about it, and that he felt that they may have done something to Feeley, and the only persons I can think of is they are the persons named in the brief. McDermott requested my advice and my advice was to phone the police, and we phoned Inspector Simmons of the homicide squad. Inspector Simmons discussed the matter with Mr. McDermott, and with myself, and McDermott at that point was concerned that Feeley was in the trunk of a car, and was enquiring from Inspector Simmons how long somebody could live in the trunk of a car, and it was sometime during these proceedings that Feeley arrived back from New York having apparently become intoxicated and gone to New York for two or three days, but it is my recollection at that time that - and one of the reasons it sticks in my mind is that McDermott was, as my recollection goes, indicated that some people were annoyed with him

for having figured that he was the one that drew the brief.

THE COMMISSIONER: I was anxious to know approximately the date of Feeley's disappearance.

A. Well, that I just don't know, my lord.

THE COMMISSIONER: Well, what year was it?

A. My guess best - my best guess would be 1958. The only way I can assist your lordship is to - to pinpoint the date is to say that Inspector Simmons undoubtedly would have made a note in his book.

MR. WILSON: Well, was it before or after the August 18th, 1958 raid on the old Ramsay Club as a result of which charges were laid?

A. I would think it would be after. My recollection it would be after. I presume it would be after. The reason I am not too sure about it, as I say, McDermott's recollection is different than mine, because I asked him about it.

MR. WILSON: Now, was Vincent Feeley also an amateur lawyer?

A. Well, he was more amateur than McDermott.

Q. Well, do you think he was capable of drawing up this brief?

A. I think so.

Q. Exhibit 102?

A. I think so.

Q. You think both of them were?

A. Well, xhx bear in mind, as I say, that as far as the two sections that are involved, they have undoubtedly gone over those two sections not once but probably 25 times in the course of these different gambling things they were involved in. They were involved in several court cases. In fact, I guess the one with the police went to the Supreme Court of Canada in connection with the gaming house.

THE COMMISSIONER: Well, just a moment. Feeley was agitated because-McDermott was agitated because Feeley, as you put it, disappeared?

A. Yes, sir.

Q. He was fearful lest harm should come to him?

A. Yes, sir.

Q. At the hands of persons whom Feeley had named in the brief?

A. No, my lord. At that time he indicated that he was fearful for Feeley's safety, that something had happened to Feeley.

THE COMMISSIONER: Yes.

A. And I recall his saying in connection with that, at least I believe so, McDermott doesn't recall this, but I do recall

this. I think that at that time he mentioned the existence of a brief to close a club, a brief that had been drawn up, that these people that he referred to, that had done Feeley in had felt that he had, that is, he, McDermott, had drafted, and that they were taking this out on he, McDermott, by doing something to Feeley, who was his partner.

THE COMMISSIONER: Just stop there for a moment. Mr. Reporter, I didn't get all that. Would you read that back to me.

---Reporter reads back.

THE COMMISSIONER: That is not the way I have understood what you have stated, and I am not sure that the Reporter has it exact. Has the Reporter got it as you said?

A. I think he skipped a little over there, my lord. It seems to me that there was more to it than that.

THE COMMISSIONER: Well, may I put it in my language: as I understand it, Feeley had disappeared, McDermott was anxious as a result of his disappearance, very much disturbed, and felt that Feeley may have had - may have come to harm because of the names having been mentioned in a brief.

A. Well, because of the brief having been prepared by McDermott, that if they believed that he prepared the brief --

THE COMMISSIONER: Yes.

A. As I recall it, the brief was mentioned.

THE COMMISSIONER: All right, go ahead. McDermott thought what?

A. There was a group of people, and I can only presume that it would be the people named in this brief against whom this brief was prepared.

THE COMMISSIONER: Yes.

A. Who felt that McDermott had drawn this brief.

THE COMMISSIONER: Yes.

A. And that they, to punish McDermott, had done something to Feeley.

THE COMMISSIONER: Why in the world would they do something to Feeley in order to punish McDermott?

A. Well, this is only one of many mysteries, my lord. I cannot figure them doing this myself, but that in any event is the way he felt, according to my best recollection.

THE COMMISSIONER: Well, have you discussed this with - the existence and the preparation of this brief? You have since discussed it with McDermott?

A. Yes.

THE COMMISSIONER: Does he, McDermott, say he prepared that brief?

A. He denies it to me.

THE COMMISSIONER: He denies it to you.

What knowledge has he of it that he communicated to you?

A. Well, before Wright was arrested I think the existence of this brief was more or less common knowledge among the police officers and gamblers and lawyers, and as I say I don't recall discussing the brief with him at all before Wright was arrested, except when this incident happened, and that is --

MR. WILSON: What incident?

A. About Feeley's disappearance and --

Q. So that - that was before Wright was arrested?

A. Oh, yes. Yes. In fact, Feeley's disappearance was quite well known about at that time. There was some talk about Feeley going around, and when he disappeared, before he disappeared, he went into a hardware store, and tried to buy a shotgun wholesale, and the Etobicoke Police had heard this, and heard about Feeley's disappearance, because he was put on the Persons Missing list as that the police have, and then one Etobicoke officer sees Feeley's name on this, that it was reported to them that Feeley was in to buy a shotgun, and so it was quite well known by all police officers at that time Feeley had disappeared.

MR. WILSON: Well, then, what I am a little concerned with is this, that the existence of this brief was known among gamblers

and the police officers.

A. Yes.

Q. Before Wright was arrested.

A. Oh, yes.

Q. Yes.

A. Oh, yes.

Q. And it was before Wright's arrest that you discussed it with McDermott.

A. Yes.

Q. How would McDermott know of the existence of it before Wright's arrest?

A. Well, I don't know, except I recall one piece of evidence where the lawyer down in - the lawyer that acted for this club that was charged, and Wright and Anderson suggesting to McDermott ---

MR. WILSON: Q. That is Mr. Fleming.

A. Yes.

Q. Yes?

A. And I don't know, my lord. It is hard to explain. These things have a habit of getting out and around, and getting into gossip, and getting to be pretty well known.

THE COMMISSIONER: Well, I suppose what was known to the gamblers would be known by those with whom the gamblers were conspiring to get information, and that was Wright? I

A. I can only just hazard a guess on that, my lord.

THE COMMISSIONER: Well, go ahead.

A. Well, if Wright were in fact in with McDermott and Feeley and second supposing that McDermott and/or Feeley prepared the brief, I presume that Wright would know of it, and that would be only reasonable.

THE COMMISSIONER: Apparently what Wright knew of he took the trouble to tell Scott.

A. Well, he apparently told Scott what was in the diary, so -

MR. WILSON: Well, did he, Scott, that you and - that he and ---

A. That he and I?

Q. That you and he and others prepared it?

A. Well, since I had never met him in my life, I couldn't have prepared it with him.

MR. WILSON: Q. Are you pledging your oath today that you did not know who prepared ~~IX~~ that brief?

A. Yes, sir.

Q. No question about that.

A. No, or suspect I could give you.

Q. I will take it one at a time. Are you pledging your oath today that you do not know who prepared that?

A. Yes, sir.

Q. And tell me whom you suspect having prepared it.

A. McDermott.

Q. McDermott?

A. Yes, sir.

Q. Why?

A. Well, now, not relying on information from McDermott, but just by following the proceedings that have taken place as I look back, and I saw at that time how McDermott didn't like the way the Niagara Falls club ---

Q. It was opposition.

A. It was opposition for him. The club that he was interested in was raided out of business. Then I recall at that time his animosity towards the idea that this other club was allowed to exist when the club that he was interested in was not. Now, then, if you go ahead, you can see that if that club went out of business - this is all theory now, if that club went out of business by being raided by the Ontario Provincial Police, but that that club could go back into business if there were an intention or source of information so that the Ontario Provincial Police would be stalemated in their efforts to close that club, and if it was McDermott who could supply that information, then I would say that he would be a welcome partner in that organization. That is what I make out of what I have heard. It is just ---

Q. Did you ever say to McDermott you prepared the brief McDermott?

A. I have preferred not to discuss it with McDermott at all.

THE COMMISSIONER: Did you ever say to McDermott, 'McDermott, I am being blamed for this, did you do it'?

A. I recall saying to McDermott, I think at the preliminary hearing, and that is the first time that I ever heard it alleged that I had anything to do with that brief, and at that time I spoke - I phoned Inspector Stringer, and I also, I believe, spoke to McDermott and Feeley.

THE COMMISSIONER: Well, what did you say to them about it?

A. Something to the effect that why would Wright - or something along these lines, and what ---

Q. Just generally, what did you say?

A. And McDermott just said, "Oh, I don't know anything about it. Gossip and rumours. Gossip and rumours." That is the way he would discount, or avoid any direct question on anything that he didn't want to discuss with you, just say, 'gossip and rumours - gossip and rumours', and what would I have to offer to that, and at that point there would be no point in any name-calling, or anything. I would have my own thoughts

as to why my name, along with others, would be included to Scott, to give him sort of an aura of joining the camp type of thing. That is what my presumption was.

(Page 3615 follows)

THE COMMISSIONER: Q. Stringer then must have lied in the witness box when he said that he thought it was from you?

A. Well, I first heard at the preliminary hearing that I was supposed to have prepared it; that it was in Scott's book. Then during the course of the preliminary hearing a reporter, I believe, told me that "Inspector Stringer said that he got the brief from you". I was a little exercised about this and I went to the gowning room, and I finally got in touch with Inspector Stringer in Peterborough. I said "This is Dave Humphrey in Toronto". He said "Hello, Dave", which took me back a little.

I said "Have I ever met you in my life that you recall?" He said "Maybe around the courts". I said, "No, have I ever seen you in my life besides around the courts?" He said "No". I said, "Would you account to me as to how you came to tell the press that you got that brief from me?" He said, "I didn't say that, Mr Humphrey; I said that somebody purporting to be you had phoned and told me that a brief was arriving to close gaming houses".

I said "All right then, Inspector Stringer, presuming that for the moment, that that happened, can you explain to me why if I have never met you and I have never spoken to you, I would send a brief to you in Peterborough that was supposed to go to Sgt. Anderson in

Peterborough" whom I know well.

He said something to the effect, "Well, it does sound a little odd". I said, "It sounds very funny to me". And that was the end of our conversation.

MR WILSON: Q. As I understand your evidence, you say there were two alternatives as to when you first heard of the brief: one, the possible date of disappearance of Feeley and the other at the time you had a meal at a -- was it in Cooksville following the hearing of a gaming charge there?

A. It was durhy the course of the trial but I had heard ---

Q. During the course of the trial, did you say?

A. Well, we had lunch together and coffee breaks.

Q. Can you recall who were present at that luncheon break or whenever this conversation took place?

A. The only two that I can recall would be Constable Lawrence and Constable Scott, I believe,was there.

Q. What about Constable Moore?

A. He may have been there. At that time there was considerable kidding about the brief. I knew about it before then and we were ---

Q. Well now, was that on October 23rd,

1958?

A. I don't know, sir.

Q. Well, do you know the case?

A. I don't know -- I know the nature of the case.

Q. What was the nature of the case?

A. Well, two people were running a carnival during a week that they were having a fair in Cooksville and they were running some kind of a crooked type of game and they were arrested by the police and the police apparently had been watching the game and they gave evidence as to how this game was played. I don't remember anything more about the details. As I recall, they were convicted. In order for us to get the case heard, I think we stayed there until the afternoon. We spent a lot of time just talking together. I think the constables and I went to the Toronto Flying Club for lunch that day and then we had the case, and that was the end of it.

Q. That day do you recall making these statements ----

THE COMMISSIONER: Q. Who were the officers there?

MR WILSON: The officers were - that he recalls - were Scott and Lawrence. I suggested to him that Constable Moore was also there and he says that might well be.

Jones?

A. I don't know, sir.

Q. Well, do you know the cause?

A. I don't know -- I know the nature of the cause.

Q. What was the nature of the cause?

A. Well, two people were running a contest during a game and they were just kind of having fun and the police arrested the police and the police arrested the guys and took them to the police station. I don't remember anything more about the details. As I recall, they were convicted. In order for us to get the case heard, I think we waived three until the afternoon. We spent a lot of time just talking together. I think the reason for I knew it from my client's perspective club for about one day and then we had the case, and that was the end of it.

Q. What day do you recall waiting --

those statements --

A. [illegible] The criminal case -- that he [illegible] -- went home and [illegible]. I analyzed it for that first conviction since was also there and [illegible]

Q. Now, the first statement I suggest you made in the presence of those officers was that you wished you had all the bad paper they had at the Cooksville Club in a year and that you would retire?

A. I may very well have made that statement.

Q. That, of course, would refer to the Centre Road Club?

A. M'hm.

Q. The next statement I suggest you made on that occasion was "If anyone at the Centre Road is losing heavily he is forced to quit playing".

A. I may very well have made that statement.

Q. And, thirdly, I suggest to you that there was a general conversation about the raid on the old Ramsay Club on August 18th, 1958, on that occasion?

A. Yes, I think that was discussed, sir.

Q. And I suggest to you that in that respect you said this, that Anderson did not execute a warrant to get the books of the Club?

A. If Constable Moore says I said it then I said it.

Q. And, secondly, in regard to that same August 18th, raid that you said you

did more work on that than Moore did?

A. That may very well be, bearing in mind, if I may interrupt, that there was a lot of kidding about this time as to whether I would take them up in McDermott's airplane and whether they would go out to the Club. There was an air of joking about it; there was an air of jocularity about the thing, kidding.

Q. When you said you did more work on the old Ramsay Club than Moore did, what did you mean exactly by that?

A. I don't recall saying that. I have some recollection of saying, when the brief was there, saying something to the effect, "Well, it was a pretty nice brief I drew up for you" or something along those lines. That is my recollection of what I said, in a kidding manner.

Q. That is what you say now, that it was just kidding the officers?

A. If I had drawn the brief up I wouldn't tell them about it.

THE COMMISSIONER: Q. If you had drawn the brief up you wouldn't have told them about it?

A. No, sir.

Q. Would you tell anybody?

A. No, sir.

Q. Not even me?

A. Oh, I would tell you, sir.

MR WILSON: Q. Do I understand you to say that you didn't know Constable R.J. Wright?

A. Never met him in my life that I can recall.

Q. Did you ever talk to him on the telephone?

A. Never.

Q. On March 7th, 1960, Mr D.G. Humphrey — and those are your initials, are they?

A. Yes, sir.

THE COMMISSIONER: What date?

MR WILSON: Well, the account that I am referring to starts on the 5th of March, 1960, and runs through to March 10th, 1960. It is an account of Mr D.G. Humphrey at the Royal York Hotel, Toronto.

Q. Now, do you recall the circumstances under which you registered in the Royal York at that time?

A. Yes. I did not register, sir.

Q. Well, were you cognizant of the fact that the account was in your name?

A. No, not until a much later date when a police officer told me there was an account in my name, I think.

Q. In fact, what was your connection with the room that was used at that time and

the account made out to you for the period March 5th to March 10th?

THE COMMISSIONER: 1960?

MR WILSON: Yes.

A. As I recall, that was a week when there was a miners' convention in Toronto and it was held at the Royal York Hotel and I know that there was a suite of rooms engaged for the mining convention by, I believe, McDermott and Feeley and a person who was doing some mining, a silver-haired fellow whom I forget his name right now. I just forget his name for the moment. I know that the room was open and that different people were down visiting and McDermott and Feeley were very interested in the mining business at this point and anxious to meet people engaged in the mining business and so forth and so on.

I recall being down at that suite one night when I think Mr McDermott or Feeley phoned me at my law offices and invited us down for a drink, and I went down with my partner and I went down with Charles Phillips, the accountant, and, as I recall, we met McDermott and Feeley and this person that they have doing some mining with them, and there were a number of persons around, and we had a couple of drinks and we left.

Q. I show you the registration for that room or a photostat of it. It refers to

the KRNO Mines Limited. Is that the mine with which both McDermott, Feeley and yourself were associated at that time?

A. Yes.

Q. Underneath that it says "D.G. Humphrey, President".

A. Yes.

Q. Were you the president at that time?

A. Yes.

THE COMMISSIONER: What is the name of the mine?

MR WILSON: K-R-N-O Mines Limited. The date of the registration is March 5th, 1960.

That will be Exhibit 127.

-----EXHIBIT NO. 127: Royal York Hotel Registration Card covering period Mar. 5 - 10, 1960, re KRNO Mines Ltd. and referring to D.G. Humphrey, President.

MR WILSON: Q. As I have already referred to the account I now produce to you a photostat of the account inthe name of D.G. Humphrey for this suite for the period March 5th to March 10th and the total account was $288.90. Does that coincide with your recollection?

A. Oh, I have no knowledge of the account at all.

Q. You didn't pay it?

A. Oh no, I didn't pay it; I had nothing to do with it.

Q. Did you know it was billed to you?

A. No.

Q. What was the reason that they would mention your name as president at the time of registration?

A. Well, I suppose -- the only thing I can think of is that maybe they wanted to charge it up to the company. I have no idea really. All I know is that there was a suite there, that the suite was occupied as far as I know by McDermott, Feeley and others, and when I went down with my partner and Mr Phillips we had a drink, and that was it.

Q. I suggest to you on March 7th, 1960, that you called from that suite to Mr R.J. Wright in Belleville?

A. I have already told you that I have not.

Q. Well, I show you a photostat of the calls from that room or that suite. March 7th, 1960, there is a call from Humphrey to Belleville, and the number is No 8-6223.

A. I see that.

Q. At 8.25 P.M.?

A. M'hm.

Q. Now, you say you did not make that call?

A. I never spoke to Robert Wright in my life until after he was arrested, either in person or by telephone, nor did I have any communication with him, either directly or indirectly, and, in fact, I barely recall his name until after he was arrested.

Q. Can you give us any explanation as to how that entry could be made?

A. Well, it is perfectly obvious that somebody wanted to contact Constable Wright and didn't want their identity to be known.

Q. Who would it be, that would be using the room apart from yourself, that might have done that?

A. Well, as I say, there was McDermott and Feeley and this other person connected with them in the mining business plus various other people who were wandering in and out of the room while I was there.

THE COMMISSIONER: Excuse me. Let me see Exhibit 129, please, what is to be marked as Exhibit 129.

Where is it on this Exhibit?

MR WILSON: I think it is the last item on the second page.

THE COMMISSIONER: The long distance call? You will have to explain it to me. I don't understand this.

MR WILSON: Yes. The last entry there

shows a charge of 60 cents. It then says "R.Y. 367".

THE COMMISSIONER: What does that mean?

MR WILSON: That I don't understand either. Then we have the name "Humprey - 2-262", Mr Commissioner.

Q. That was the number of the suite, was it?

A. Yes.

Q. Then "Blvl" is for Belleville, I take it. That is the abbreviation for Belleville, I believe.

THE COMMISSIONER: Yes.

MR WILSON: Q. And "Wo 8-6223" is the number called in Belleville?

A. Yes.

THE COMMISSIONER: Yes.

MR WILSON: Which I am informed at that time was the residence of R.J. Wright.

THE COMMISSIONER: That will be shown later in evidence?

MR WILSON: Yes, we will show that later in evidence. The time of the call was 8.25 P.M.

MR MACKINNON: I'm sorry; what was the date?

MR WILSON: March 7th.

Q. Now, there isn't any question but what you were there in that room on March 7th?

A. Well, I don't know how long the

room was engaged for. I was there one evening and during the time I was there I was in the presence of Mr Phillips, the accountant and my partner, Mr Locke, at all times. We were there approximately half an hour. We had a drink or two and we left.

Q. You say that was the only occasion that you were in that room or in that suite? This one evening?

A. That is my best recollection, Mr Wilson.

Q. How long were you there?

A. My recollection is for a couple of drinks. Maybe half an hour, three-quarters of an hour, maybe an hour.

Q. Were McDermott and Feeley there when you were there?

A. I think so, yes. It was McDermott that invited us down, so I am sure that he would be there. At least on the one occasion that I recall being there.

Q. Do you recall what time during the evening you spent in the room?

A. No, sir.

Q. I show you a chit that was signed on March 7th for that room. Tell me whether or not the "D.J. Humphrey" there is your signature?

A. "D.G. Humphrey"?

Q. Yes, "D.G. Humphrey".

A. I would say it was not.

Q. You would say it was not?

A. It doesn't appear to be mine.

MR WILSON: This record of the calls is Exhibit 129?

REGISTRAR: Yes.

-----EXHIBIT NO. 128: Photostatic copy of Royal York Hotel account for period Mar. 5-10, 1960.

-----EXHIBIT NO. 129: Photostatic copy of Phone Call Slips - Royal York Hotel.

MR WILSON: Q. Then I show you a further chit for March 9th, in fact two for March 9th, with the signature "D.G. Humphrey" appearing on them. Are those your signatures?

A. I would be inclined to say yes but it doesn't -- certainly I didn't make any effort to sign it carefully. The "h" looks like mine. Would you like a sample of my signature? I cannot honestly say whether it is mine or not. It may be or it may not be, sir.

Q. We have three here now. Are you telling us that one or more or none of those are yours, your signatures?

A. The one here that looks like it starts off with a "J" and then the "J" is scratched out and then it is "D.G. Humphrey", that I would say is not mine.

Q. That is the one of March the 7th?

A. I don't see the date. Now, this one (indicating), no, I would say -- that would be very hard to say, Mr. Wilson. It looks something like my signature although I notice they appear to be different in themselves even.

MR WILSON: Well, we will mark those three vouchers, I guess you call them, as the next exhibit.

REGISTRAR: As one exhibit?

MR WILSON: Yes.

Q. Would you mind writing your signature "D.G. Humphrey" as it is signed there? Do about three of them.

A. (Witness writes.)

Q. You have written seven sample signatures, "D.G. Humphrey". Possibly we can attach that as part of the same exhibit. Before we complete that exhibit, I show you one further chit here under date of March 6th which has a signature "J. McDermott". Is that Joseph McDermott's signature?

A. I wouldn't know it if I saw it.

Q. You wouldn't know his signature if you saw it?

A. No.

Q. And yet you have been in business dealings with him for years?

A. Well, he doesn't sign cheques.

I would have very rare occasions to see his signature.

Q. I know he doesn't sign cheques, he pays cash, but doesn't he sign any company minutes or anything like that?

A. He may have but I just couldn't conjure up his signature in my mind at all and say whether that was or was not it.

Q. Well, we will add that one of March 6th to the Exhibit. It says above it, there is printed above it "D.G. Humphrey authorized by guest by" something. Can you figure out what that is?

A. "D.G. Humphrey authorizes" something, "guest I.A." Maybe -- I don't know.

Q. Well, maybe we can get some light on that later.

THE COMMISSIONER: We will recess now for five minutes.

-----EXHIBIT NO. 130: Four Royal York restaurant accounts, dated Mar. 6, 7 and 9, 1960; and seven signatures of D.G. Humphrey.

---A Short Recess.

(Page 3630 follows)

--- Upon resuming.

MR. MacKINNON: I am just wondering about these signatures, while we have them. I think these chits are usually signed like this. It is a little different than signing down here. Possibly the Witness could be asked at some stage to sign so we have it all in one Exhibit?

THE COMMISSIONER: This is as good a time as any.

THE WITNESS: How shall I sign it?

THE COMMISSIONER: Hold it up in front of you, like you are asked to sign a chit at a hotel.

MR. MacKINNON: When you are standing in your room.

THE WITNESS: I don't know how you do it, but I usually put it down on a table.

MR. MacKINNON: You are lucky. I can't ever find a table.

THE WITNESS: You get them.

THE COMMISSIONER: Put the letter A on the top of that so we will know that is your signature made while standing up.

MR. WILSON: Q. Before I go to the next matter in point of time there is a couple of questions I want to ask you about the dinner you had in Detroit, at which Giacalone was present.

A. Yes sir.

Q. Where was that ~~XXX~~ dinner?

A. I don't know, sir.

Q. Have you not any recollection as to whether it was a hotel or a restaurant?

A. As I recall, it was a restaurant.

Q. Yes. Have you any recollection of the name of the restaurant?

A. No, none, sir.

Q. It wouldn't be the Grecian Gardens, would it?

A. I don't know. What name doesn't ring a bell with me at all.

~~THE~~ COMMISSIONER: Q. What part of the city was it in?

A. In the downtown area. We went out to dinner and to a restaurant.

Q. Did you go in a taxicab or walk?

A. I couldn't remember, my lord.

MR. WILSON: Q. What did Giacalone talk about at that dinner?

A. I think the only two topics of conversation I can recall is, one, the case; and two, football tickets. What was discussed about the case, I can't recall except there was general conversation by all parties present concerning the prosecution against the club.

Q. Now, coming to December of 1958, do you recall getting in touch with Assistant Commissioner Kennedy of the Provincial Police around about that time?

A. I don't recall the date but I recall getting in touch with him, yes.

Q. What was the reason for your visit to Assistant Commissioner Kennedy?

A. Well, McDermott and possibly Feeley ---

MR. WILSON: Did I say 1958?

THE COMMISSIONER: Yes.

MR. WILSON: I am sorry. I should have said 1959.

Q. Yes, I am in error. It is December, 1959.

A. That may be.

Q. Now, just tell us how you came to visit the Commissioner?

A. Mr. McDermott and possibly Feeley also, discussed with me the fact that they had received some postcards and letters and a number of phone calls from John Curly Gardner, to the effect that if they didn't give John Curly Gardner some money, that he was going to do a number of things to get them into trouble and to get them into jail. That was the nub of it.

Q. What were the number of things he was going to do?

A. Well, he was going to the police and he was going to tell the police a lot of things about McDermott and Feeley that would result in their being put in jail. That was

about the size of it. I wasn't too clear on the nature of the things he was going to do, but in essence he was going to make things very unpleasant for them and see it got them into jail.

Q. Did they show you any of the documents that you referred to?

A. Yes, sir. I think they showed me a couple of postcards and apossibly a letter, I am not sure.

Q. What were you asking the Provincial Police to do, through the Commissioner?

A. First of all McDermott pointed out these things to me and I said the only logical thing to do was to go to the police. There is no way to protect yourself except to go to the police.

Q. Yes, and what happened?

A. I didn't know the Commissioner, I had never met him, but I had known Deputy Inspector Kennedy through the Highways Investigation, and I may have phoned him, I don't know. I either phoned him first or went down, or straight went down, and I spoke to him and outlined the situation to him and showed him what documents I had. He said that we had better discuss it with the Commissioner. We then went to the Commissioner's office and I outlined the situation and I noted that this was extortion. I always thought that the police

took extortion more seriously than they did gambling, but they didn't seem too interested, really, in doing anything about it. I always thought extortion was worse than running a gaming house, and here were the persons that were alleged to have been running the Cooksville gaming house and they appeared to know them quite well. I was somewhat surprised that they didn't seem more interested in doing anything about it at all and they said something about it not being in their jurisdiction. I said I would offer help and McDermott would offer help and Feeley would offer to help them in any way they required in order to investigate this matter and they, again, said it was out of their jurisdiction, and the Commissioner asked me if McDermott had a patch on the OPP.

THE COMMISSIONER: Q. The Commissioner asked you what?

A. Whether McDermott had a patch or a fix or source of information on the OPP, and the rest of our time together was spent discussing that.

MR. WILSON: Q. You were hardly the man to ask that question, were you?

A. That is right.

Q. You suggested a meeting be set up between Gardner and McDermott?

A. I may have. I read that in the newspaper recently and that seemed to ring a

bell. The thing was that we would co-operate and that is the usual way to do it.

Q. In any event, nothing came of your representations in regard to that?

A. No sir.

Q. Did anything happen to McDermott as a result of these threats?

A. No, I suppose not.

THE COMMISSIONER: Q. Why do you say you suppose not?

A. I don't know what part Gardner played in bringing about a prosecution. I presume none.

Q. The prosecution of who?

A. McDermott and Feeley.

Q. For what?

A. For bribing Wright and for running a gaming house.

MR. WILSON: Q. Were any arrangements made, to your knowledge, with Gardner, which put a stop to these threats?

A. No.

Q. Was any money paid over by McDermott to Gardner at that time?

A. No. McDermott's attitude to me was, he wouldn't give him a quarter, and that was the impression I was left with. He could do what he liked, if he wanted to go to the police or if he wanted to go and see the newspapers or anybody he liked, he wasn't going

Dell. The thing was like no world we've
ever that is the least may be in it.

Q. In any event, nothing came of your
[illegible]

A. No sir.

Q. Did anything happen to change
me a result of [illegible]

A. No, I suppose not.

The [illegible] Q. Why do you say
[illegible]

A. I [illegible]

Please [illegible]

Q. The [illegible]

A. [illegible]

Q. Yes sir?

A. For breaking [illegible] for running
a [illegible].

Q. [illegible] Does [illegible]
made, to your knowledge, with Darling, which
was a help to Dixie Stevens?

A. No.

Q. Was any money paid over by
Stevens to Darling or [illegible]

A. No. Darling explained to me
was, he wouldn't give him a check, but that
was the arrangement I was left with. He wanted
to wire to Ithel, if he wanted to go to the
factors or if he wanted to go and buy the
[illegible] to regard to Dell
[illegible]

A. No sir.

Q. Any [illegible] nothing came of your
[illegible]

A. No, I suppose not.

The [illegible] Q. Why do you say
[illegible]

A. [illegible]

Please [illegible]

Q. The [illegible]

A. [illegible]

Q. Yes sir?

A. For breaking [illegible] for running
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Q. [illegible] Does [illegible]
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was a help to Dixie Stevens?

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Stevens to Darling or [illegible]

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Q. Any [illegible] nothing came of your
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A. No, I suppose not.

The [illegible] Q. Why do you say
[illegible]

A. [illegible]

Please [illegible]

Q. The [illegible]

A. [illegible]

Q. Yes sir?

A. For breaking [illegible] for running
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factors or if he wanted to go and buy the
[illegible] to regard to Dell
[illegible]

A. No sir.

Q. Any [illegible] nothing came of your
[illegible]

A. No, I suppose not.

The [illegible] Q. Why do you say
[illegible]

A. [illegible]

Please [illegible]

Q. The [illegible]

A. [illegible]

Q. Yes sir?

A. For breaking [illegible] for running
a [illegible].

Q. [illegible] Does [illegible]
made, to your knowledge, with Darling, which
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Stevens to Darling or [illegible]

A. No. Darling explained to me
was, he wouldn't give him a check, but that
was the arrangement I was left with. He wanted
to wire to Ithel, if he wanted to go to the
factors or if he wanted to go and buy the
[illegible] to regard to Dell
[illegible]

to be blackmailed, and that is the last I heard about that situation.

Q. Now, there was a search warrant ~~xk~~ executed at both your residence and your office?

A. That is right.

Q. Following the arrest of R. J. Wright?

A. That is right, sir.

Q. May I have Exhibit 107? I produce to you a warrant for the search at both your residence and the office, which has been filed here as Exhibit 107A and 107B, and bear date December 17th, 1960. Now I see the Justice of the Peace is Patterson.

A. Yes, sir.

Q. I suppose you knew Patterson by reason of your work at the City Hall as Assistant Crown Attorney?

A. I recall seeing his name on warrants. I can't conjure up a face to go with the name.

Q. So how long before the actual warrants were executed did you have knowledge that they were outstanding?

A. About five days. The one in the office, not the one for the house.

THE COMMISSIONER: Just a moment. Yes.

MR. WILSON: Q. Where di d you obtain the information that the warrant was outstanding?

A. Indirectly, from Constable Moore.

Q. Indirectly?

A. Yes.

Q. What do you mean, indirectly?

A. Well, I came to my office one day and the receptionist told me that Constable Moore had waited practically all day to see me and had eventually given up. So I went into my offices and I phoned the Ontario Provincial Police and got Constable Moore on the phone, and asked him what he wanted with me and he said:

"How did you know I was in your office?"

I said:

"Well, you are Constable Moore and the "girl said Constable Moore was here so "I put two and two together and phoned "you. What can I do for you?"

He said:

"It seems funny to me because I only "mentioned the name Mr. Moore. How "do you come to the conclusion it "was me?"

I said:

"I put two and two together and phoned "you. What can I do for you?"

And he became very evasive and he said he would be back again. I said:

"Do you want to speak to me about "something?"

or something along that line, and he still couldn't get over the fact I knew he was Constable Moore and said that he would be back. He was very evasive. I immediately became suspicious and I went to the receptionist and told her what he had said about giving her the name Mr. Moore and she said: "He did only say he was Mr. Moore, but somebody phoned and asked for Constable Moore and I put him on the phone." So I put two and two together and thought that the only thing that it could add up to was that they were goig to execute a warrant at my FB offices.

THE COMMISSIONER: Q. What made you think that?

A. Well, because, for one thing, what Wright had told me.

Q. What Wright had told you?

A. Yes sir.

Q. When?

A. After his arrest?

Q. What did he tell you?

A. Well, he told me after his arrest that somebody said something to Scott. I expressed amazement as to why they would want to search my offices, and the only reason given to me at the office was I was Wright's lawyer and that is the reason. I thought it very odd the search warrant was for photographs

and tape recordings and that type of thing, and that mystified me. I asked Wright and Wright said somebody said something to Scott or Scott was under the impression McDermott and Peeley had photographs of all those people and officials and everybody else, and tape recordings of their voices and telephone conversations, and they were all in my possession.

Q. That is what Wright told you?

A. Yes sir.

MR. WILSON: Q. Did McDermott or Peeley have photographs of the various members, particularly of the Anti-Gambling Squad of the OPP?

A. I only heard about that in Court cases. I have no knowledge of anything such as that.

Q. What other knowledge of the Force did you hear that they had in their possession?

A. Knowledge of ---

Q. About the very matters you just mentioned. What Wright had told you that was suspected might be in your office?

A. Well, I don't recall really, specifically. I think I recall sort of mentioning to McDermott I was dumbfounded they did it and I thought it was unfair. I stated the basis for it and I said, I think,

why they did it, and I said:

"What about that?"

and he said:

"Just rumours and gossip and a lot of nonsense."

Q. And after you obtained this information about the likelihood of a search warrant being executed in your office, were any files removed from your office?

A. I think so.

Q. And those files ---

THE COMMISSIONER: Q. What do you mean, you think so?

A. McDermott and Feeley were in there and I don't think they thought I was expecting someone would probably come in, but it didn't seem to be awfully important because they had instructed the Income Tax Department, some months before, and given them permission and we had given permission, I think, to the Income Tax Department for them to come in and examine all our records on whatever right they required to come in, in connection with the McDermott and Feeley, so we had been expecting for weeks and weeks the Income Tax Department to come in there, and if there was anything in there of an incriminating nature, it would be gone out long before that. They may have taken files out, and my recollection is that they did. I think my recollection is that they

took out a file in connection with an apartment building we handled for them.

Q. This is the removal ~~of documents~~ of documents by Wright and Feeley?

A. Right.

Q. Or McDermott and Feeley?

A. Yes.

MR. WILSON: Q. This occurred after you informed them of the likelihood of a warrant being issued and executed to search your office and, in fact, before that warrant was executed?

~~XXXXXXXXXXXXXXX~~

(Page 3645 follows)

A. Or it may have been even before I had that information.

Q. Which was it?

A. I don't know. I have a recollection of getting this in my mind, with Constable Moore, and I have a recollection of them taking documents out, and the recollection that I have of what they took out was a file to do with an apartment building that they had bought and sold. That is my best recollection as to what was taken out.

THE COMMISSIONER: Q. That left me in a state of confusion. I thought you were saying five days elapsed during which you had knowledge of the fact that the search warrant was outstanding?

A. Yes, sir.

Q. Yes. And you told us you learned about the search warrant and I thought you said you told McDermott and Feeley that you suspected they were about to execute a search warrant on your offices?

A. Yes. I have no records or recollection of actually doing it, but I understand I would.

Q. I understood you to say, as a result of your telling them about it, that the files were taken out. Am I wrong?

A. That was not really as a result, my lord, because as I indicated, we expected the

Income Tax Department to come in.

Q. Strike out the words "as a result".

A. Yes.

Q. After you learned as to the fact that the search warrant had been signed and before its execution.

A. Yes.

Q. You telephoned McDermott and Feeley and told them about it?

A. I was in touch with them at that time, but I wouldn't make a specific point of telling them.

Q. You informed them?

A. Yes.

Q. After you informed them, certain files were taken out of your office?

A. My lord, I can only recall the one file taken from the office and that is the file in connection with the apartment building. I couldn't understand why they didn't want that there when the police came in. Now, there may be other things that were taken at that time, I don't know.

Q. How would they get them without your consent?

A. Well, they can speak to different people in the office. We never exercised liens on our clients' files, if they came in and asked for them, could they have this file

and that file.

Q. If they came in and asked someone for the file in the office, you would know that?

A. Not to my knowledge.

Q. You are the proprietor of the office?

A. I recall speaking to them in the office and I recall McDermott putting a file I think I got for him or possibly Mr. Locke got for him, in his brief case, in connection with this matter.

Q. After the warrant was signed and before it was executed?

A. That is my best recollection, my lord, yes.

Q. Was there only one file taken out of your office in that interval?

A. My best recollection is that there was only one file, my lord. They didn't have that many files in our office.

Q. How many did they have?

A. Half a dozen.

Q. How many were there when the police were there?

A. I don't know. I would say the better part of half a dozen.

THE COMMISSIONER: All right.

MR. WILSON: Q. When you were talking to Constable Moore, all you did, I presume, is

suspect there was a search warrant outstanding?

A. Yes.

Q. Now, did you get any information of that five day period or prior to that five day period from any other source, about the outstanding warrant?

A. No, except for this, that I would, during conversations with different people, tell them about the fact that I suspected this and so forth and so on, and I think towards the end of the period people started to tell me my office was going to be raided.

Q. What people?

A. I can't recall. The only person I can recall, I think, is Mr. Berger at the Town Tavern. I think he is usually up on all the latest gossip, and it would have got back to him at that time, and he would say he heard from someone that my office would be raided. I told him I knew.

THE COMMISSIONER: Q. Mr. Berger in the Town Tavern?

A. Yes. I eat lunch there, my lord.

MR. WILSON: Q. Is Mr. Gimlet a Justice of the Peace at the City Hall?

A. No, sir, he is Bail Magistrate.

Q. And he is a good friend of yours?

A. I have known him through the years.

Q. He didn't, by any chance, mention

this gossip, did he?

A. I don't recall that.

Q. After Wright's arrest, there were two other officers who were called in, two other Provincial officers who were called in; members at that time of the anti-gambling squad, Lawrence and Lamorie?

A. Yes, sir.

Q. As soon as they got notice of a request to appear before the Commissioner, did they get in touch with you?

A. They were in touch with me very shortly after they had been called on the mat, yes.

Q. And as a result of meeting with you, did you draw up a form of resignation for each of them?

A. Either I drew it up or they drew it up. I think it was a very simple thing. "I hereby resign from the Force."

Q. Did you advise them to do so?

A. I think we should just pause here for a moment, my lord. When these persons came to my office, they were seeking legal advice, and we had certain discussions among the three of us. It may be taken to be of a legal nature, and although I don't personally object to divulging any of the conversation, and although the conversations may not be in any way prejudicial to them,

I think I am obliged, my lord, to claim the solicitor's privilege.

THE COMMISSIONER: Q. You haven't been asked for any conversation, as I remember it.

A. I just want to raise that point, my lord. I am being asked now if I advised them to resign.

THE COMMISSIONER: Yes, you were asked that.

MR. WILSON: Q. Before we can possibly come to any ruling on that, had you ever acted for either Lawrence or Lamorie before they came to your office, prior to that time?

A. No, sir.

Q. Who sent them to you?

A. I have no idea.

Q. Now, did you advise them, after discussing the situation with them, what action they should take?

A. I know the decision was reached during my conversation with them, that the better course of conduct to follow would be to resign. Now, I certainly wouldn't take it upon myself to tell them to resign.

THE COMMISSIONER: Are you ready elsewhere, Mr. Wilson?

MR. WILSON: I expect so, Mr.Commissioner.

THE COMMISSIONER: Tomorrow at two o'clock?

MR. WILSON: No, I think we go from now until Monday, as far as public hearings are concerned.

THE COMMISSIONER: Very well, ten o'clock Monday morning.

--- Whereupon at 4.15 p.m. the Public Hearing adjourned until Monday Morning, April 30th, 1962, at 10.00 A.M. o'clock.

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

TRANSCRIPT OF ARGUMENT ON APPEAL

Date

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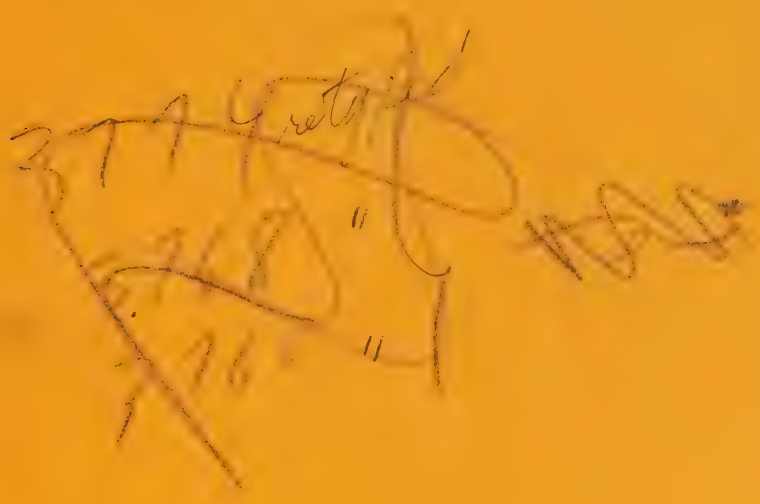
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ROYAL COMMISSION ON CRIME IN ONTARIO

Tues., May 8, 1962.

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IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

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A/1/O'N.

TUESDAY, MAY 8TH, 1962

---Upon resuming at 10:20 a.m.

---Mr. W.C. Rose, Q.C. appearing.

---Mr. O. Shime, appearing.

MR. BREWIN: Mr. Commissioner, I have called in further reinforcements and Mr. Owen Shime will be representing the New Democratic Party with other counsel.

THE COMMISSIONER: What is the name?

MR. BREWIN: Owen Shime, S-h-i-m-e.

THE COMMISSIONER: S-h-i-e-e?

MR. BREWIN: Yes.

THE COMMISSIONER: Mr. Rose?

MR. ROSE: Commissioner?

THE COMMISSIONER: In view of the decision of the Court of Appeal yesterday, would you now tell me the names of those witnesses who have already given evidence whom you want recalled, if any?

MR. ROSE: Yes. I spoke to my friend, at least, my friend Mr. Wilson, spoke to me after the hearing yesterday and asked me at that time who I would like to have recalled, and I told him ---

THE COMMISSIONER: I am asking you now.

MR. ROSE: Yes. I told him I would want to consider it for a day or so. As you know, sir, I have not had copies of the evidence. I was not allowed to order them. The only

[illegible]

[illegible]

[illegible]

evidence I was allowed to order was the evidence of Mr. Shrubb, for the motion, and I would like to consider the evidence that has been given and inform you or my friend in the next few days as to the witnesses I want to cross-examine.

THE COMMISSIONER: I thought, in view of the motion, you had somebody in mind.

MR. ROSE: I had somebody in mind and I would like to give them at the present moment. Mr. Scott, the Ontario Provincial Police officer and Mr. Shrubb and Mrs. Shrubb, those are three persons I know of at the moment.

THE COMMISSIONER: When you have considered the matter to your own satisfaction, will you tell me, please?

MR. ROSE: Yes, I will, sir.

THE COMMISSIONER: I will be asking you from time to time.

MR. ROSE: Insofar as calling them, I wouldn't want to interrupt the continuity of the evidence as Mr. Wilson is presenting it. I would be happy to bow to his wishes as to the time he wanted them in.

THE COMMISSIONER: You have named three now.

MR. ROSE: Yes.

THE COMMISSIONER: I am going to name another, and I suppose -- is there any reason now for withholding the name of Mr. 'X'?

MR. ROSE: I would not think so, sir.

THE COMMISSIONER: All right. He is "Curly" Gardner.

MR. ROSE: That is correct, sir.

THE COMMISSIONER: I want him recalled.

MR. ROSE: Very well, sir. I believe at the time he finished giving his evidence, you did inform him he would be called back later on.

THE COMMISSIONER: Yes. You will be able to produce him at any time?

MR. ROSE: Yes, there is no difficulty about that.

THE COMMISSIONER: I will let you know when we are ready for him.

MR. MacKINNON: You remember, Mr. Commissioner, in the course of the examination of Mr. Gardner, I asked Mrs. Gardner be called as well. I wonder if that is possible?

THE COMMISSIONER: Yes. Now, Mr. Wilson, when we adjourned Mr. Humphrey was giving evidence.

MR. WILSON: Yes. Mr. Humphrey was in the box. I will recall him now to continue.

DAVID HUMPHREY, resumed

EXAMINED BY MR. WILSON (Cont'd):

Q. Do you recall the defence of Pleschuk and Chapell, on May 10th, 1957, in Magistrate's Court, New Toronto?

A. I recall Pleschuk. I don't recall Chapell was charged with him, although he might have been.

THE COMMISSIONER: What are you looking at?

MR. WILSON: I am showing the witness a transcript of the evidence in Regina vs. Hubert John Chapell and Joseph Pleschuk.

THE WITNESS: Joseph Pleschuk?

MR. WILSON: Q. The way he is described here is Joseph Pleschuk. You are noted as having appeared for the defence along with Mr. Arthur Maloney.

A. Yes.

THE COMMISSIONER: What were they charged with?

MR. WILSON: They were charged that within six months ending on the 6th day of March in the year 1957, in the County of York, did unlawfully engage in bookmaking contrary to the Criminal Code of Canada.

THE WITNESS: There was a second charge.

MR. WILSON: Q. And further, the said John Chapell and Joseph Pleshhuk, within the six months ending the 6th day of March in the

year 1957, in the County of York, unlawfully did keep a common betting house situated and known as 132 Sixth Street, New Toronto.

Now, does the reference to this transcript help you to recall your connection with that prosecution?

A. Yes, sir. There were two or three cases with regard, I think, to that premises, and this would be one of them. Yes.

Q. You will notice there -- what was the outcome of that?

A. I think the accused were acquitted of this charge.

Q. You will notice there the reference to the defence witness, the reference to Sol Gebirtig?

A. Yes.

Q. Who retained you in that matter?

A. I have no recollection of that, but I would presume that it would be McDermott who would have asked me to act in that case.

Q. And under what circumstances was Sol Gebirtig called as a defence witness?

A. I think his purpose in being at court, as I recall it, was to prove a charter and so forth, as one of the possible defence witnesses, and then I think that the case took a turn where the issue then was whether the Magistrate could be satisfied that the undercover officer, Rainey, was being frank with the court,

and I think the case turned on that basis.

Q. Were you responsible for calling Mr. Gobirtig as a witness?

A. I don't recall. I would have to look at the transcript. Either Mr. Maloney or I would call him and I don't recall it.

THE COMMISSIONER: If anything turns on it, you have the transcript.

THE WITNESS: I appear to have examined him, to start with.

MR. WILSON: Q. I think he was your witness.

A. Yes.

Q. I don't think there is anything else we want on that.

THE COMMISSIONER: Q. Why would Rabinowitz ask you to defend Fleschuk and Chapell?

A. My lord, I can only give the same answer as before in connection with other cases in which he asked me to act, and I take it he had some interest in the proceedings, either in the personnel or the premises, themselves, bearing in mind, insofar as any cases in New Toronto were concerned, and in that area in which he was apparently raised and well known, he was sort of the unofficial lawyer of all the people who got into trouble out there and a number of persons who may very well not have had any direct interest in him or he in them, when they got into trouble they came

to speak to him about it because of his supposed knowledge of the law and proceedings and how the police operated and so forth and so on.

Q. That would be in criminal matters?

A. Yes. He wasn't discussing civil matters, my lord, that I know of.

MR. WILSON: Q. I refer you to the evidence of J.M. Anderson in this matter, at page 2259.

THE COMMISSIONER: Page what?

MR. WILSON: 2259.

MR. MacKINNON: Whose evidence?

MR. WILSON: Anderson, at line 11, starting at line 12, and the question:

" Now, I think I asked you "at the adjournment whether you "had --- "

THE COMMISSIONER: Who is the examiner?

MR. WILSON: This is the examination of Anderson in-chief, by myself.

THE COMMISSIONER: By who?

MR. WILSON: I am examining Anderson.

THE COMMISSIONER: This is the evidence of Anderson in these proceedings?

MR. WILSON: Yes, in these proceedings.

THE COMMISSIONER: I thought you meant something else.

MR. WILSON: I thought when I mentioned 2259 that you would know. Have you a copy there? It is volume 11. Possibly I could read this

starting at line 12.

THE COMMISSIONER: Go ahead.

MR. WILSON: (Reading):

"Q. Now, I think I asked you at "the adjournment whether you had "any basis in fact for determining "the authorship of this brief, "Exhibit 102, . . ."

which would be the Ramsay brief, as he described it.

". . . at the time it was delivered "to you, or up to the time of the "raid?

"A. I had no direct basis for it, "sir, other than my own feelings "in the matter.

"Q. Well, did you ever at a "later date ascertain factually who "the author was or authors were?

"A. I did, in talking to Mr. David "Humphrey, the lawyer.

"THE COMMISSIONER: Q. When?

"A. I was trying to think of the "date, sir; it was the time of the "Wright and Feeley trial of this "year, and I was talking to Mr. "Humphrey, and he stated that Mr. "McDermott wanted he (Mr.Humphrey) "to defend him at the trial, but "Mr. Humphrey felt that he couldn't,

"because he might be involved,
"because he said that Mr. McDermott
"stated that -- words to the
"effect, my lord -- that even if they
"could or can prove that we had
"something to do with the brief, so
"what?
"Q. I want to get that; He told
"you that McDermott had wanted Humphrey
"to defend McDermott at the trial?
"A. Yes, sir.
"Q. He thought he couldn't because
"he felt that he, Humphrey, might be
"involved?
"A. Yes, sir.
"Q. I didn't get the rest of what
"you said.
"A. I was quoting what McDermott
"said to Humphrey was that, as I say,
"words to the effect, that supposing
"they can prove that we had something
"to do with the brief, so what?
"Q. Supposing they can prove ... Yes?
"A. That terminated it, sir. I
"was just speaking with Mr. Humphrey
"for a few minutes.
"Q. Who was the "we"? Oh, McDermott
"is talking to Humphrey?
"A. I ---
"Q. Just a moment. And, according

"to Humphrey, McDermott said,
"'Supposing we had something to
"do with the brief, so what?'?
"A. That's right, sir.
"Q. Then, McDermott would be
"one of the 'we'?
"A. That is correct, sir. In
"other words, McDermott and, I would
"say, Mr. Humphrey, would be the 'we'."

Q. Now, having read that to you, what comment do you have to make about that statement in that evidence of Sergeant Anderson's?

A. This problem as to whether or not I might act for either McDermott or Peeley had come up on several different occasions, and on each occasion it came up I would indicate to them it would be impossible for me to act in this trial because of the fact that there was this hearsay evidence from Wright to Scott, to the effect that I had assisted in preparing the brief, according to the note in Scott's book. And McDermott had some difficulty in understanding this and he would say, "So what?". He would say, "It is a brief to close the Club and not a brief to keep a Club open. What of it? Even if they could prove it, what was it?" And that would be the basis of it. I would say, "It is not a question of that, I would be put in the position that I would be a counsel and be required to argue a piece of evidence

that involved me and he would still say, "So what? It is only a small point and only a brief to close the place." He couldn't understand the significance of it.

Q. I have asked you to produce this morning certain documents, by my letter of May 1st, 1962. Did you receive my letter?

A. Yes, it came to my attention, I think, last Friday.

Q. Have you the documents and information asked for in that letter?

A. I have as much as I could get, for reasons I will explain. When I got your letter, I was out of town on Thursday, and on Friday I discussed it with my partner and spent much of the weekend going over such financial records, and he and I worked until after midnight last night, and I have taken from our financial records from 1954 to date.

Q. 1854?

A. No, 1954, I believe up to date, which are complete and in our possession, and I have my own notations of 87 financial transactions in all.

Q. I wonder if you could leave those with me and we will look into them and possibly, if desirable, questions you about them at a later date.

A. The position is this; I have made notes that are as accurate as I can get them

about financial transactions. Undoubtedly, with the number of transactions, it would run into literally thousands. There may be some that are overlooked, and then it occurred to me that some of these documents might be privileged and I indicated my feelings to Mr. Rose, who is counsel for the accused.

Q. Well, will you leave those in my office before you leave here today?

A. I will only leave them if his lordship rules I should leave them.

Q. I will ask the Commissioner to rule on whether or not the documents covered -- that is a copy of my letter?

A. Yes, sir.

Q. Would you give a copy of the letter to Mr. Commissioner, please?

THE COMMISSIONER: Mr. Rose is on his feet.

MR. ROSE: Mr. Commissioner, insofar as the documents which have been prepared by Mr. Humphrey, my clients, Feeley and McDermott, take the position that the information in the possession of Mr. Humphrey was information communicated to him and during the course of the relationship of solicitor and client, that there was an agreement, if I may put it that strongly, between my clients and the law firm of Humphrey and Locke, that their dealings were to be of a confidential nature and that the

usual privilege would exist in respect to those matters that usually exist between soliciter and client. Subject, of course, to what you may rule, sir, it is my submission on their behalf, that they are privileged communications or the result of privileged communications and that under these circumstances Mr. Humphrey is in no position to disclose them or to turn them over. Of course, I don't imagine that would stop some attempt to have them produced when either one of my clients were in the witness stand at a later date, but as far as them being produced by this witness, I take the position that they are privileged.

THE COMMISSIONER: I can't very well rule on it unless I know what they are.

MR. ROSE: I understand your position, Mr. Commissioner, but my submission is that I don't think it is admissible that business dealings or transactions with Peeley and McDermott, under these circumstances, should be blazened across the front pages of the newspapers. I know you, sir, will have to decide on the question of privilege here, and in so doing I would perhaps suggest that the sittings be private while you are deciding. I certainly think that there is a right of clients not to have their business dealings told to all and sundry.

B/1/AD

THE COMMISSIONER: Well, I have already said that I cannot rule on it until I know what the documents are.

MR. ROSE: Are you suggesting, sir, what the documents are but not the contents of them at the moment? I understand there are ledger sheets and so on and so forth, sir, showing the financial transactions of Feeley and McDermott.

THE COMMISSIONER: How do you suggest I can rule on them?

MR. ROSE: My suggestion, sir, is this, that in determining whether or not the documents are privileged, you are going to have to look at the documents and see what they are about.

THE COMMISSIONER: Yes.

MR. ROSE: Now, during the time that you are doing that, my suggestion is that those proceedings should be in camera, because it would not be proper, in my submission, in the event that you should decide that they are privileged documents or privileged communications - it would not be proper that the contents of them should be a matter of public knowledge until such time as you decide.

THE COMMISSIONER: I entirely agree with that.

MR. ROSE: Those are my submissions.

THE COMMISSIONER: When am I going to be able to see them? That is the point.

MR. WILSON: That is why I suggested that possibly the witness should not produce the documents for inspection but should give us a list of the documents, and then we can decide as to what procedure can be followed to see which part or whether all are subject to privilege.

THE COMMISSIONER: Is that satisfactory?

MR. ROSE: That seems like a very good suggestion.

THE COMMISSIONER: All right, will you do that?

THE WITNESS: I am bound by Mr. Rose, who is now their counsel, and he is speaking on behalf of my former clients. I am bound by that suggestion, and I am prepared to do that, but I want to explain this. We have spent hours and hours going over our records from 1954 to date and we finished last night some time after midnight. I have some 87 entries, and I know that there are some that we have overlooked. I have brought three or four files with me, but we never got to the stage where we could find the cancelled cheques.

MR. WILSON: Yes.

THE WITNESS: It is not that we haven't got them, they are all available, and they are in the third floor of the new building of our law firm, but to ask my partner and me to find these things would take a great amount of

time, and I was wondering if Mr. Wilson could supply somebody to assist us in this matter. This is a case for two chartered accountants to go into them. I am prepared to divulge all those records.

MR. WILSON: Certainly, we can supply some assistance to the witness to try to sort out the documents and see whether any of them are of interest to this Commission or whether they are not, and certainly then it might be that we can determine to what extent the privilege would apply in the light of the evidence that has been given in this case.

THE COMMISSIONER: All right.

THE WITNESS: If I have Mr. Rose's permission to do that, I will do that.

MR. ROSE: Yes, I am quite content with that, sir.

THE COMMISSIONER: All right.

MR. WILSON: I think this is the last series of questions that I want to put to you, for the moment anyway.

A. Yes.

Q. It is just to identify the individuals whose pictures appear in these photographs. (Photograph handed to the witness)

A. The person on the right of this photograph is a person I originally knew as "The Chief", who appears to be Chief Borelli.

Q. Chief Borelli?

A. Yes.

Q. Of Niagara Falls or Fort Erie, or wherever it was?

A. Yes, and the person on his right - the second person from the left ---

Q. The second person from the right?

A. Yes, on Borelli's right, appears to be James Ryan, although the picture is not that good. The next person I do not know, although the picture is not good, and then the next person is Joseph McDermott.

Q. Now, will you tell us the place and the time of the taking of that picture?

A. I don't know. I don't think this is the picture I took or I was present at that time.

MR. WILSON: Possibly these photographs can be all one exhibit, A, B, C and so on.

THE COMMISSIONER: Yes.

MR. WILSON: There are about four or five of them here. (Photograph handed to the Registrar)

THE COMMISSIONER: Let me understand now. Can you write beneath the persons shown in the photograph the name of the particular person you are identifying so that we can identify them?

A. Yes, sir. (Witness writing on photograph)

Q. Who is that one? (Indicating)

A. I am not sure how I spell "Borelli".

Q. I think it is B-o-r-e-l-l-i. (To Mr. Wilson): Is that correct, Mr. Wilson?

MR. WILSON: I think so, sir.

THE WITNESS: That would be James Ryan. (Indicating) Then there is a person I do not know, and this person would be Joseph McDermott. (Indicating)

THE COMMISSIONER: This will be marked, then, Mr. Wilson, as Exhibit 131.

THE REGISTRAR: Exhibit 131.

MR. WILSON: Exhibit 131-A.

THE COMMISSIONER: Yes.

---EXHIBIT NO. 131-A: Photograph.

MR. WILSON:Q.The next photograph is Exhibit 131-B, Mr. Humphrey, and someone has traced through the picture onto a plain white sheet and put a name to the individuals shown in the photograph.

A. Yes.

Q. Namely, Borelli, Ryan, Feeley, Gebirtig and McDermott?

A. Yes.

Q. Now, is the designation as shown on that white sheet of paper correct?

A. Yes.

Q. Do you recall anything about that picture?

A. Yes, sir.

Q. What?

A. That was a fishing trip at a fishing camp. I believe it is the Key River near where it runs into Georgian Bay, very near the Bustard Islands, and I forget the name of the people that run this camp. It runs in my mind that they were Finnish people. The camp would hold about 30 people, and they supply boats and guides and fishing facilities.

Q. Yes.

A. My best guess as to when this picture was taken would be 1955 or possibly 1956, and I took the picture.

THE COMMISSIONER: What?

A. I took the picture. (Photograph handed to the Commissioner)

THE COMMISSIONER: Exhibit 131-B.

THE REGISTRAR: Yes.

---EXHIBIT NO. 131-B: Photograph.

MR. WILSON: Q. And then Exhibit 131-C is a picture of three men standing in front of an aeroplane?

A. Yes.

Q. Can you identify those individuals?

A. The one on the left is myself, the next one is McDermott, the next one is Ronald or Ronnie Horton of Peterborough.

Q. Can you tell us when that picture - when and where that picture was taken?

A. It was taken ---

THE COMMISSIONER: Did you take it?

A. No, but I obviously lent my camera to somebody and asked them to take it.

Q. Yes.

A. That picture was taken either at South Porcupine or at Moosonee, and I forget the name of the airline that the aeroplane belongs to - Austin Airways - and it would be taken in the Fall of - I don't know. I had another picture at home of this, and I had the date on it, and I know I spelt James Bay with two a's, and that is how I had the date. I think it would be 1957.

MR. WILSON: Is that 'C' or 'D'?

THE REGISTRAR: Exhibit 131-C.

THE COMMISSIONER: Taken at South Porcupine or Moosonee?

A. Yes, my lord. There is a seaplane base that Austin Airways operate both at South Porcupine and at Moosonee.

Q. Who would be running the plane?

A. I think the pilot - well, he would be working for Austin Airways. I just don't recall his name now.

MR. WILSON: The next photograph I show you will be Exhibit 131-D, and I see the same technique has been used as in the case of Exhibit 131-B, that they have got a sheet here where they have identified, from left to right

as we look at the picture, Feeley, yourself and McDermott? (Photograph shown to the witness)

A. Yes.

Q. And then the individual on the righthand side is unidentified. Do you know who he is?

A. No, I don't.

Q. Can you tell us the time and place of the taking of this picture?

A. No, I can't. (Photograph handed to the Registrar)

THE WITNESS: The only thing I can do is surmise ---

THE COMMISSIONER: Let me see that picture.

THE REGISTRAR: Yes, sir. (Photograph handed to the Commissioner)

THE WITNESS: I would surmise that that would be taken at that same camp that I discussed before but on a different occasion, because I think there were two occasions when we flew from Toronto up and landed at this camp and secured a guide and a boat from this camp and fished in the same area. I have no recollection of that picture at all, but I would surmise that.

THE COMMISSIONER: Write the names on the face of it.

MR. WILSON: There is a sheet attached

to it, Mr. Commissioner.

THE COMMISSIONER: I know there is, but this will save us fumbling for the sheet attached.

MR. WILSON: Yes, that is right. (Witness writing on photograph)

THE COMMISSIONER: When was it taken, do you know?

A. I would say in 1957 or 1958. That is the best guess.

Q. Did you get there by plane?

A. If this is the same area, I would think so, my lord, yes.

---EXHIBIT NO. 131-C: Photograph.

---EXHIBIT NO. 131-D: Photograph.

MR. WILSON: Then, finally, I show you a photograph which will be Exhibit 131-E, showing three persons. (Photograph handed to the witness) Can you tell us who they are?

A. The person on the right is Mr. Sol Gebirtig, the person next to him, in the middle, is Chief Borelli, and the other person I don't recognize.

THE COMMISSIONER: Write the names down on the photograph.

A. Yes, sir.

Q. Would he be the pilot or guide? (Indicating)

A. I just don't recognize him at all.

Q. You don't recognize him at all?

A. No.

MR. WILSON: That is all that I have to ask this witness at this time, Mr. Commissioner.

---EXHIBIT NO. 131-E: Photograph.

MR. MacKINNON: Mr. Commissioner, if Mr. Rose feels that this witness is giving evidence adverse to his clients, and if he wishes to examine this witness . . .

THE COMMISSIONER: You had better go ahead.

MR. MacKINNON: Very well, sir. I wonder if I could have ---

THE COMMISSIONER: Mr. Rose is not here. You go ahead.

MR. MacKINNON: I wonder if I could have your photostatic copies of the deeds and documents?

MR. WILSON: Yes. Oh, there is one matter that I overlooked. I am sorry, sir.

THE COMMISSIONER: Yes.

MR. WILSON: I had better just check. Could I have Exhibit 121?

THE REGISTRAR: Yes. (Exhibit handed to Mr. Wilson)

MR. WILSON: Thank you.

Q. I show you a document filed here as Exhibit 121.

A. Yes. (Exhibit shown to witness)

Q. It is a summary of certain telephone calls from Port Credit 8-2538 to various numbers, and it is over the period from May 13th, 1958, to approximately the beginning of July, 1958. Now, on this list there appear two calls to a number in Willowdale, Baldwin 1-4793, which has been identified in evidence as being the telephone of W.C. Bowman.

A. Yes.

Q. Did either McDermott or Feeley ever discuss with you any telephone calls that might have been made by either of them to that Baldwin number?

A. I am just trying to think whether that might be privileged, but I do not see how it would be. It would not be in connection with the court case; it would be just general conversation. McDermott did.

Q. McDermott did?

A. Yes.

Q. And what did he have to say about any calls that might have been made to that number?

A. Well, it started off with the idea that he and others who engaged in a gambling

business disliked Mr. Bowman, being of the view that he would use any means to close the clubs, fair or foul. There was knowledge that the phone number on which these calls were charged was being monitored by the police.

THE COMMISSIONER: I beg your pardon?

A. It was known that this phone number to which these calls were charged was being monitored by the police in the sense that they were picking up the tickets and something of that sort and checking all phone calls that were made of a long-distance nature.

MR. WILSON: It was known by whom?

A. It was known by McDermott. This was part of the story, how they felt about Bowman and that the police were on to his phone number.

HIS LORDSHIP: I do not quite follow. This is McDermott talking to you?

A. Yes.

Q. And saying, in substance, "I know something about the phone being monitored."?

A. Yes.

Q. Now, that is what I do not understand.

A. Well, apparently knowledge was had of the fact that the police were executing search warrants or otherwise at the Bell Telephone offices so that they might find all telephone numbers called of a long-distance

nature and charged to this particular telephone number.

MR. WILSON: Well ---

THE COMMISSIONER: Just a moment.

MR. WILSON: Did he tell you how he knew that?

A. No, sir.

Q. And when did he tell you that?

A. I don't recall. The best guess I could say would be a couple of years ago. That would be about it. That would be very rough.

Q. Then what did he tell you about the calls, if anything, to this Baldwin number?

A. Well, he said how they felt about Bowman and the fact that they knew that the police would detect the identity of the persons who had phoned or would get the telephone numbers that would charge this number, that telephone calls had been made to Mr. Bowman's home number. I forget whether I said something about, "That sounds like a pretty dirty trick", and he said, "Ah, that will give the police something to think about, that little so-and-so Bowman", and I said, "That's awkward", or something, and he said, "Oh, good company", and I said, "Who else would phone?" - "Oh, everybody - Frost, Kelso Roberts, and all down the line".

He seemed to think it was very amusing,

and he said that if the calls had been under three minutes and just a flat rate, it might have appeared that somebody had just phoned a wrong number, or something on those lines, but that there was a prolonged conversation held with regard to a lost dog which was calculated to protract the telephone call to several minutes, and he seemed to think that that was quite funny and recounted his version as to how the conversation went with regard to the lost dog.

(Page 3685 follows)

C/1/PP

MR.WILSON: Q. When you say that McDermott mentioned the tapping, the monitoring of the phone, are you speaking of the Crescent 8-2538 Port Credit number?

A. I have no idea what the number was.

Q. But what phone was he saying was being monitored?

A. The phone from which calls were being made and the calls charged to.

Q. That is the phone that he was using?

A. He did not say that he was using it. It was a phone, obviously that he had knowledge of and he had knowledge of the fact that these calls were made, whether he in fact said, "I made these calls" I cannot say that at all, but he had detailed knowledge of it in the sense that he knew that calls were made and he knew the text of the calls with regard to the lost dog, which I recall quite vividly.

Q. As far as this Baldwin number is concerned, did he say with whom the conversation was carried on in regard to any lost dog?

A. No.

Q. That is all, thank you.

THE COMMISSIONER: What led to his discussion of this matter with you?

A. Well, he just mentioned it one time as a humorous event in his mind, and he told the story as a humorous anecdote.

Q. Where?

A. I don't recall. It could have been almost anywhere that I was with him. This was not something, my lord, that I would recall the surrounding circumstances at all. I recall the situation very vividly because of the fact that Mr. Bowman was involved and because of the fact that I thought it was a dirty trick.

THE COMMISSIONER: All right. Is that all, Mr. Wilson?

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Do you want to ask this witness any questions, Mr. Rose?

MR. ROSE: I was prepared to, but I will wait until my friends have finished, Mr. Commissioner

---

EXAMINED BY MR. MacKINNON:

Q. Just to turn to one of the last things first, witness, Exhibit 1318 I believe you told us was in connection with a fishing trip to a fishing camp on the Key River, Georgian Bay, which took place in 1955 and 1956. Can you tell me, was this in the spring of the year?

A. I cannot even tell you the year, let alone whether it was - it was sometime during the fishing season is all I can tell you.

Q. Was this the picture that you said

you have the date on your photograph on the wall?

A. No. No, the one I have the date on was another one, and I can sort of recall it. It had artificial geese in the sand, and that would be at Moosonee, and that did not have the date, but just the year, James Bay, and the reason I remember because I spelled "James" with two "a"'s, and some of our guests saw this picture and raised the comment on the condition I was in when I took the picture, and that is how I remember it.

Q. Then your evidence that this picture was taken in 1955 and 1956 is subject to further qualification?

A. Yes.

Q. That may be wrong?

A. Yes.

Q. You did not say this originally. It could have been later than that?

A. Yes.

Q. It could have been earlier?

A. I would say so.

Q. It could have been either earlier than 1955 or later than 1956?

A. Yes sir.

Q. Now, when did you cease to be an assistant crown-attorney?

A. 1954.

Q. And I understood you to tell us in the last day of your evidence that you had not

Q. And I understand you to testify as
to the facts that you testified to here
in the first day of your testimony that you had
[illegible] with Miss Lamb?

A. Yes.

Q. Now, when did you cease to be on
[illegible]?

A. Yes sir.

Q. It could have been as late as
1915 or later than 1915?

A. I would say so.

Q. It could have been subsequent
to 1915?

A. Yes.

Q. It could have been earlier?

A. Yes.

Q. That may be true?

A. Yes.

Q. You did not say that emphatically.

It could have been later than that?

A. Yes.

Q. That may be true?

A. Yes.

Q. You did not say that emphatically.

I was in mine I took the picture, and took it
[illegible].

[illegible] was taken in 1915 and 1916 in connection in Jerome
[illegible]

Q. Then.

Q. That may be true?

A. Yes.

Q. You did not say that emphatically.

It could have been later than that?

A. Yes.

Q. It could have been earlier?

A. I would say so.

Q. It could have been either earlier
than 1915 or later than 1916?

A. Yes sir.

Q. Now, when did you cease to be on
[illegible]?

A. June.

Q. And I understand you to testify as

met McDermott until 1956, the fall of 1956, when he telephoned you to act for the accused or some of them in the Tisdale Club matter in Peterborough?

A. In Peterborough, that is right.

Q. Are you sure this is the first time you ever heard of Joseph McDermott when he telephoned you?

A. I heard of him?

Q. Or spoke to him?

A. It is the first time I ever spoke to him, I am quite sure of that. It may not be the first time I heard of him, but if I had heard of him I had not heard of him enough so as not to confuse him with being a lawyer on the Lakeshore of that particular name.

Q. You must have got veryfriendly with him very quickly to have made a fishing trip, say, in 1956?

A. If it was 1956, well, we went on a fishing trip, if that is any indication of great friendliness.

Q. Can you place it any better now when you think of the Tisdale Club?

A. No.

Q. Did he take you away with him immediately after meeting you?

A. No, it runs in my mind that after the Tisdale Club proceedings were over (that would be my best guess) that Mr. Bobirtig

and I were going to go fishing and we discussed it with McDermott and Feeley, I believe, and they are both very interested in fishing, particularly McDermott, who was quite ardent, and Mr. Gebirtig is a very ardent fisherman; and sometime I remember during the discussion it was decided that they knew of this camp, and I had and Mr. Gebirtig had been there before and I think on several occasions, and it was decided that we would all go to this camp and that, I think, McDermott and/or Feeley would pay our way, as it were.

Q. You went on all these trips as the guest of Feeley and McDermott?

A. Yes.

Q. And I take it there were a number of other trips that you took with Feeley and/or McDermott?

A. Yes.

Q. Quite apart from those shown in the photograph?

A. Yes.

Q. And on each occasion as their guest, so to speak?

A. Well, there would be some occasions where, to break the pattern, I would pay the cheque, but generally speaking any check or bills would be paid by either or both of them who happened to be there.

Q. Including the fare such as

there was, airplane fare?

A. Yes.

Q. Or if a car was driven, it was McDermott or Feeley's car, is that it?

A. Not necessarily. It might be my car, but generally speaking I would take the position that - first of all with these people it is almost impossible to pay a check even if you were determined to pay one, it is almost impossible to pay one.

Q. Did you ever make any trips to the United States with them?

A. Yes.

Q. Can you tell us about those?

A. Yes, I recall one trip to the United States wasduring the time that I was complaining about the club in Fort Erie, the name of which escapes me. I think there was just McDermott and I that went over, but I understand that Mr. Gebirtig was there too, and we went over and had dinner in - I forget the name of the place - an Italian restaurant, it is in Buffalo, prior to coming back to the Fort Erie area, and then there would be - - -

THE COMMISSIONER: Just a moment. Who made the trip?

A. Who made the trip?

Q. Yes.

A. McDermott, myself and Mr. Gebirtig.

MR. MacKINNON: Q. You were going to tell us

about some other trip?

A. Yes, of course at the time that the club in Windsor was being prosecuted I was there on several occasions, in Detroit with McDermott, because we would stay in Detroit rather than Windsor, although the case took place in Windsor.

Q. Did you ever go to Florida, meet McDermott there?

A. Very shortly after I had met McDermott my late wife and I were in Florida and somehow I knew where he was and where he was staying, and I think he knew where I was and phoned over, and I think McDermott and his wife and my late wife and myself went deep-sea fishing one day, and I think we went to the Parrot Jungle on another day, having an early dinner and quitting at that, that is my recollection.

Q. He hadnot paid your way down to Florida on this occasion?

A. No.

Q. Did you ever meet him anywhere else in the States or outside Canada?

A. Meet McDermott or Feeley?

Q. That is right.

A. Both?

Q. One or other or both?

A. There were a number of occasions that Feeley and I went - I shouldn't say a number of occasions - I think it was about three years

in a row, in the wintertime or in the springtime that Feeley and I went to Bimine, which is a British Island off the coast of Florida, and to Nassau. Then on one occasion I went down to Jamaica.

Q. With Feeley?

A. No, he was there and I went down afterwards.

THE COMMISSIONER: Three years in a row you and Feeley went to Bimine and then to Nassau?

A. Yes.

Q. What did you sayabout Jamaica?

A. Well, I thought there was three years in a row that we went down. Possibly the third year was Jamaica, and it would be only two years in a row to Bimine and Nassau.

Q. What about Jamaica?

A. That was, I think, the last time we went down, we went to Jamaica.

Q. Who?

A. Well, Feeley was there and I went down, and I was going to fly the airplane back along with the pilot, Sam Cowley, who I had known for some time from the Toronto Flying Club. Then I ran the plane into a dock and the plane had to be repaired.

MR. MacKINNON: What year was this, is that 1958?

A. It might be 1958.

Q. What time of the year, January,

February, March?

A. It would be after Christmas and beforethe warm weather started.

Q. February or March?

A. Possibly something, yes. Then since I could not fly back with the pilot with the airplane, because he was repairing it, and I had to get back, Ithink we then went to Florida, on a flight to Florida, and then I think we changed planes at Key airport and went out to Bimini again.

Q. How long would these trips last, three weeks?

THE COMMISSIONER: Who is "we", Feeley and you?

A. Yes, sir. No, about a week. Some a day or two shorter, some a day or two more.

MR. MacKINNON: Q. And once again, would these trips be paid for by Feeley?

A. Yes.

Q. Did you or he or McDermott own land in this area?

A. No, that was one of the reasons that Feeley and I went down. It was combined business and pleasure, if you will. We were interested in buying property in the islands, if possible. Ithink their motive in buying property was predicated upon their ability to secure gambling rights in the islands.

Q. I see, to set up a gaming

establishment they were seeking property, I take it?

A. Yes, apparently under Bahamian laws the Government can authorize legalized gambling outlets, and there are two that I know of. There is the Bahamian Club in Nassau, and there is a club at Cat Island which is very near Bimini.

Q. Who else were present on these trips, or any one of them?

A. Who else were present?

Q. Yes, anyone else from Canada?

A. Well, there would be Sam Cowley who would be the pilot.

THE COMMISSIONER: Which trip are you talking about?

MR. MacKINNON: Any one of these trips.

Q. How did you go down in the first place on these trips, aircraft owned by Feeley and McDermott?

A. No, I would go down by commercial aircraft on these trips, yes. On one occasion I recall the aircraft was going to go down south.

THE COMMISSIONER: What aircraft?

A. The aircraft that they had. I don't know whether it was KRG or KRN. I think it would be KRN would be the designation, CF-KRN. They wanted the aircraft down in the island, or McDermott did, and there was a great to do with Cowley as to whether Cowley thought that we could take the aircraft off on floats in

January of this particular year. We consulted Lee Baxter, a very experienced pilot down on the island, who knew McDermott and Feeley, and myself and so forth, and we made preparations to take the airplane, which was a Cessna 180 on floats, off the Toronto Harbour. (I think it was on January 5th or 6th), and fly it to New York. That would be McDermott, Sam Cowley (the Pilot) and myself. Then he continued on with the aircraft down to Key West and then over to the island, where I believe McDermott met him, and McDermott and I came back to Toronto by commercial aircraft.

MR. MacKINNON: Q. This is a different occasion then from the three occasions you went down with Feeley, I take it?

A. Yes.

Q. As you said, you went down three times at least with Feeley?

A. Yes.

Q. On any of those trips who else apart from Feeley, was with you or met you?

A. Well, McDermott was there. He was not in Jamaica.

Q. I am sorry, who was there?

A. McDermott. I am just trying to figure who was there. He was not in Jamaica. I do not recall seeing - I don't recall his being in Bimini, although I know he was there a number of occasions himself. I recall seeing him in

Nassau, but that may only have been last winter - not this winter, the one before. That would be my best recollection.

Q. Who else though?

A. From Toronto?

Q. Besides McDermott, from Canada?

A. Well, I don't recall anybody else.

Q. Well, doyou recall meeting Riggs down there at any time?

A. No.

Q. Midgely?

A. No.

Q. And you cannot tell of anyone else outside of yourself, McDermott and Peeley and the pilot, being present either on the way down going with you or else meeting down at these locations?

A. Well, I can recall - what is his name? - I can recall meeting Dave Winchell and his wife in the Bahamian Club.

THE COMMISSIONER: Dave who?

A. Winchell.

Q. Who is he?

A. He is a businessman here in Toronto. I think he is in the stock business and he owns a magazine, and he has several businesses. I understand he is quite wealthy. He had a large yacht that was down there at the time.

MR. MacKINNON: Q. But there was no arrangement to meet him down there?

A. No.

Q. As far as you were aware?

A. No.

Q. Was there any other arrangement to meet anyone else down there from Canada?

A. Gee, I guess you must be driving atsomething, and I am doing my level best to recall I ~~really~~don't recall. I recall speaking to Mr. E.P.Taylor bycoincidence, asking him if he would be interested in having gambling casinos set up at his Lyford Cay which was a large subdivision. He told me he was not interested.

Q. Did you tell him who you were representing?

A. That I acted for some professional gamblers who were from Canada and who were interested in securing legalized gambling in the British possessions, and would he be interested in having a casino out at the Cay, and he said something to the effect that he was not interested in getting in on the dealer's side of the table. I think I said something to the effect: "Well, what would you call Woodbine race track?", and I think we both laughed and that was it.

Q. Did you ever go to Ochos Rios in Jamaica to meet anyone?

A. No, that is where I ran the airplane into that dock.

A. No.

Q. Are you not sure whether

A. No.

Q. Was there any other arrangement

to meet anyone else down there from Denver?

A. No, I guess you must be getting

somewhere, and I am doing my level best to recall

I don't recall now. I recall speaking to

Mr. H.P.Day for approximately, around his

be would be interested in having physical

casings set up at his

Redford Gas

mation was a large substation. He told me he

the end [illegible]

Q. And you told him we [illegible]

[illegible]

A. That I could for some [illegible]

[illegible]

interested in securing logistical geophysical as

the Gravity operations, and would be be

interested in having a casing cut as the

Clay said

Mark, and he was assisting to the effect that

he was not interested in getting in on the

owner's side of the table. I think I said

according to the effect "Well, most until you

call Kendrick Lake Tunnel", and I think we

were through and that was it.

Q. Did you ever go to Lookout Mtn

to location to meet anyone?

A. Oh, that is more I was the

[illegible] Mrs. Hunt.

Q. Did you not meet anyone there?

A. No.

Q. By arrangement?

A. No, we met no one there. In fact I recall going on a flight to Kingston, and then we were flying by and Presley said that he had heard about this place and there were some Toronto people had started some gambling there and been shut down, I think that was it, and it was a very fabulous place. We landed there, and we had lunch on an outside patio west of Kingston.

Then when I was trying to get the airplane - by this time it had come up on the sand, and getting it off the sand and getting started again, one of the natives held the left float and it circled around and ran into a dock and did some damage to the aircraft, and we had to leave it there.

Q. Do you ever remember a helicopter being taken down to the United States?

A. Yes.

Q. This is another occasion, is it?

A. Yes.

Q. I wonder if you can tell us about that one?

A. Well I know that the helicopter was taken down to Nassau, and I know that Hohermatt and Presley were staying there at that time,

and I know that the helicopter was there at that time.

Q. Were you there at that time?

A. Yes.

MR. COMMISSIONER: Just a moment. This is another occasion, separate occasion?

MR. MacKINNON: Yes, apparently.

THE COMMISSIONER: The helicopter was taken from Toronto down?

A. Yes, sir. There was a business arrangement with Dominion helicopter that they were to supply engineer and a pilot and the expenses, and McDermott and Feeley were to supply the helicopter, and it was to go down to Nassau with a view to ferrying people around for a fee, and the helicopter was doing that.

MR. MacKINNON: Q. Who flew the helicopter down?

A. A fellow called Fehults.

Q. Is he an employee of - -

A. Dominion Helicopters, yes.

Q. Dominion Helicopters?

A. Yes sir.

Q. Who owned the helicopter?

A. I presume it was McDermott and Feeley.

Q. You did not act as a solicitor in the transaction?

A. Not that I recall.

Q. For the purchase of that particular

aircraft?

A. Not that I recall, no.

Q. Now, I want to come back to those things later, but if I may just come back to the order in which Mr. Wilson took you through your evidence, he started with the Tisdale Club. Did you at this time know a Joseph McDermott, who was practising law in the Lakeshore?

A. No. There are almost three thousand lawyers in Toronto, and I just presumed by the conversation, by the tone of his conversation, the manner in which he used these descriptive words of the trouble that these people were in, that he was a lawyer.

Q. But Sol Gebirtig soon disabused you of that, didn't he?

A. Yes.

Q. And from then on, or at least shortly thereafter, you had no illusions I take it, as to the occupations of either McDermott or Feeley?

A. No, I knew they were professional gamblers.

Q. Now, by "professional gamblers", don't you mean they were running gaming establishments?

A. Yes.

Q. It was not that they were gambling themselves as such, but they were in the business of running gaming establishments, weren't they?

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A. Well, I had it in my mind they were connected with the management of the gaming establishment in Cooksville.

THE COMMISSIONER: A moment ago you said "establishments".

A. No, Mr. MacKinnon put it in the plural and I agreed.

MR. MacKINNON: Q. I thought you agreed with the Commissioner last day, as he pointed out to you, these people had a gaming house they were running, and you said, yes, that you did have connections with these people?

A. With respect, I corrected the Commissioner. I said they had an interest in these clubs and what their interest was, I did not know.

Q. You are not suggesting their interests were fraternal with these people running these clubs?

A. I don't know.

Q. It was financial, was it not?

A. Probably was.

Q. Is there any doubt in your mind ?

A. No.

Q. So you spoke to Gebirtig and he told you who McDermott was then?

A. Yes, I think so.

Q. And you were being retained, Mr. Gebirtig has advised us he was retained by McDermott, and I suppose you were as well?

A. Yes.

Q. Did you set your fee at that time to McDermott?

A. I think there was some discussion about it because I know when Mr. Gebirtig phoned me he asked me what my fees were, and I told him, and he said something to the effect that Joe was very cute and said, "You know, he will be dialling your number on another phone so that I could not get to you first, and he got to you first, and your fees are much too low, and if you hadn't spoken to him first we would arrange for them to be higher", because he said he had dialed immediately and my line was busy when he got through.

Q. And I take it that McDermott did pay your fees, whether they were low, medium or high?

A. No, Ithink Horton did. As I recall, Horton paid my fees.

Q. Well, you would have an entry in your book for that as well, as to whether it was Horton or McDermott, I suppose, who paid your fee?

A. Well, I have an entry with regard to the situation probably, but as to who gave it to me it may or may not be, I do not know. I presume you will soon be seeing all my entries.

Q. Well, we will once again come back

to that. Did you not discuss with Gebirtig what McDermott's interest was in the Tisdale Club?

A. No.

Q. Or did Gebirtig assume that you knew?

A. I don't know that Mr. Gebirtig knows. That was a matter of unimportance really to us.

Q. But just so that we will get it clear, there was no question in your mind that at that stage you were being retained to act in this matter for McDermott, and you discussed this with him and you accepted a retainer, is that correct?

A. All except the part of accepting a retainer, that is right. He asked me to act. We discussed terms, of my fees, and so forth and so on. I believe that was arranged with McDermott by phone in the first phone call, that is right.

Q. At that time Horton or anyone else had not spoken to you?

A. No, I had never heard of him.

THE COMMISSIONER: In other words, McDermott hired you to do the job and he paid you?

A. All correct, except my impression is that Mr.Horton gave me the money in Peterborough.

Q. I thought you just said McDermott paid you.

MR. MacKINNON: No, he wasn't sure. He thought Horton paid him.

THE WITNESS: Yes, I think that is true.

MR. MacKINNON: Q. I understood from your evidence that McDermott continued to take an interest in the proceedings as they went along?

A. Yes, as I indicated last day, I don't recall discussing the matter with him at all, except until the first trial was over at least, and then I recall his going down with his car to bring the bail papers back.

Q. Who suggested he do that, did you?

A. It may be. I mean, this is sometime ago. My recollection would be vague. but I would presume that what would happen would be that McDermott would be contacted with the results of the case by either Gebirtig or by myself, and there would probably be a decision made to launch an appeal. The bail application would be made; McDermott would be apprised of the fact the bail was set, and be informed of the procedure to be followed.

Q. I will be coming to this strategy conference in Detroit, but didyou have a similar conference with regard to this particular appeal with Gebirtig?

A. I don't recall it, but it may be.

Q. You did not appear on the appeal,

I understood you to say?

A. That is correct, nor do I recall appearing when the accused were sentenced.

Q. Now, you have stated inyour evidence, if I may read from it, that Magistrate Bartrem was designated apparently to hear the case, and that was the new hearing?

A. That is right.

Q. Now, whom did you hear that from, that he was going to be designated or had been designated to hear the case, can you tell me?

A. I don't know. All I know is that when Mr. Gebirtig and I drove down to Peterborough we had it in our minds that Magistrate Bartrem was to hear the case. We knew it would be a different magistrate, of course. It would have to be a magistrate other than the magistrate who heard it in the first instance, and somehow it came to our knowledge.

Q. You said that you imagined it was from speaking to someone in the Attorney General's Department or perhaps it was in conversation with the Crown Attorney. Whomwould you be speaking to in the Attorney General's Department about this case?

A. Well, three or four members of the staff there. It could have been anybody. I would presume Iwould phone - I don't know whether Mr. Magone was there or not - it would probably be either Mr. Common or Mr. Bowman

or possibly somebody else.

Q. Did you make any suggestion as to who the magistrate should be to hear this case?

A. No, because as I recall when I heard Magistrate Bartrem, it was just one of many persons who out of the Province they might have chosen.

Q. Did McDermott or Feeley suggest to you whom they would like to have for a new hearing?

A. I don't recall anything such as that, no.

Q. Did they tellyou who the magistrate was going to be?

A. It is possible.

Q. You really don't have any clear recollection?

A. No.

Q. And if they did tell you, I take it youwould have no recollection if they advised you from whom they got the information?

A. No.

Q. Now, you stated in your evidence that Magistrate Bartrem had told you, you put it, on at least two occasions, that it was you who had got him off the case, is that correct?

A. Yes sir.

Q. Now, how recently would be the last occasion he made that suggestion to you?

A. Couple of years ago.

Q. I see, but that of course was not so, you had not objected to him hearing the case?

A. No.

Q. Quite the contrary, isn't that so?

A. I did not say quite the contrary. Magistrate Bartrem's views on gambling are not altogether acceptable by these accused.

Q. Haven't you argued that he was seized with the case and you were to move for prohibition?

A. That is right.

Q. To prevent Magistrate Hopkins from hearing it?

A. I don't know whether we talked about prohibition. We indicated our view was that since Magistrate Bartrem was seized of it, that this hearing before Magistrate Hopkins would be a nullity, and therefore we chose to withdraw and we received permission to do so and we did.

Q. Then you also said that you had some discussions with the Crown Attorney up there as to sentence?

A. Yes.

Q. And that you might plead guilty and would a fine be all right. Did he at that time or at any time say he wished to speak to the Attorney General's Department about this matter?

A. Not that I recall, but he might have.

Q. Did you speak to anyone in the Attorney-General's Department about this question of fine or imprisonment for these people?

A. No, I am quite sure I did not.

Q. Now,you did state, and once again I would like some detail on this, you stated that you had acted for Feeley and McDermott in a number of instances and a number of different civil matters, a number of business matters, is that correct?

A. Yes sir.

Q. You were seeing quite a lot of Feeley and McDermott over the years?

A. Yes, I think that is a fair statement.

Q. Not onlysocially, but from a business point of view, is that correct?

A. Well, I would prefer to put it not only from a business point of view but also on occasions, socially.

Q. And in 1958 you were still acting for them as their solicitor in many matters, is that correct?

A. I presume so. There seemed to be something always going on.

Q. Yes.

A. I presume therewould besomething in 1958.

Q. Yes. Again, I shall come to that in a moment. You stated at this stage in your evidence that you were a member of the Veterans Club. Do you remember when you first became a member of that club?

A. No.

Q. Would it be after you met McDermott or before?

A. It could have been before.

Q. When you were an assistant Crown Attorney?

A. No.

Q. After?

A. Yes.

THE COMMISSIONER: It could have been, but was it?

A. I am sorry, my lord?

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Q. It could have been before you met McDermott, but was it before you met McDermott?

A. That is very difficult to say, my lord. My best guess would be that I had met McDermott, but I only would have known him very casually.

MR. MacKINNON: You said it was notorious, this particular club, wasn't a dozen people in Toronto who would not know about it?

A. Yes.

Q. People behind it, presumably.

Did you not know at this time that Joseph McDermott was connected with this club?

A. When I went to the club?

Q. Yes.

A. I have it in my mind that I did, yes.

Q. You still say that when Joseph McDermott telephoned you you really did not connect him with this club?

A. That is right.

Q. Then is it not a fact that your legal services did extend to acting for Feeley and McDermott with regard to this club as well as the other clubs?

A. No.

Q. Well, were not you telephoned on occasions, by either Feeley or McDermott when the police were there, and you talked to the police and they advised you no arrests were being made, so you said, "Well, it won't be necessary for me to come down now"?

A. That might be.

Q. Well, wouldn't you be acting as solicitor then for them with regard to this club?

THE COMMISSIONER: If not, why not?

A. I suppose that if somebody were going to arrest McDermott, he would phone me. Now that you mention it, it may well be that he would phone me from the club - and I think I have some recollection of it - and say the

police were there. Yes, this might very well be. In fact, I recall it now.

Q. Would you consider that - you would have worked not as a friend but as a solicitor?

A. For Mr. McDermott, yes, I would.

Q. Wasn't that your legal service in connection with this club?

A. In connection with McDermott.

Q. Yes, But in connection with this club, was it not? It was with relation to this club?

A. Yes, that is right.

Q. Then you were asked an isolated question as to you being present on the premises Centre Road Veterans Club premises on April 17th, 1957, and you stated that you recalled the occasion when Sergeant Anderson came on to the premises?

A. Yes, I did.

Q. That was in the afternoon, was it not?

A. Yes, it was.

Q. And you had a magistrate there with you, didn't you?

A. Yes, I did.

Q. Now, how did the magistrate happen to be on the premises? Was it as the result of something you said to him?

A. Yes, I had defended McDermott

that day on a driving charge, and McDermott was leaving, I believe, with somebody else, and said: "How would you like a drink?", or something along those lines, and "I will straighten up my fees with you", or something along those lines. I said, "Fine", because I live near the court there and I did not intend to go back downtown.

THE COMMISSIONER: You were defending him on a driving charge where?

A. In the Lambton Mills Court on Dundas Street at Prince Edward.

Q. Before whom?

A. Magistrate Thoburn.

Q. Yes, all right. Now, go on you had been defending and then I did not quite get you?

A. Well, the case was over and I think Court was adjourned, and I made arrangements to meet him out there to have a drink.

Q. You made arrangements with whom?

A. McDermott. He then proceeded on to the club, and then I ran into the magistrate that you refer to around the Magistrate's Court there somewhere, and one or other of us suggested we might have a drink or a coffee or something, and I - I mean, just sort of supposing what happened - and I indicated that I was going out to this club and going to have

a drink out there, and it was decided that he would come out for a drink. We went out, we had one or two drinks, and we left.

While we were there - this is in evidence - while we were there Sergeant Anderson came in, and I believe somebody from the Fire Marshal's office was with him, and I believe Mr. McDermott was there and I believe the caretakers were there, a German couple, I think, that look after the premises.

MR. MacKINNON: Q. Did you not tell the Magistrate where you were taking him and with whom you were going to have this drink?

A. I told him that I was going to have a drink with myclient of that day, and I told him we would be going to this club in Cooksville.

Q. I take it he did not know Joseph McDermott pubor to this date?

A. I would expect not.

Q. Well, do you know?

A. No.

Q. Or did it appear that he did?

A. No, I would say that he did not.

Q. Was this magistrate to your knowledge a member of the Jordan Club?

A. No.

Q. You do know the Jordan Club?

A. No, I know what you are driving at. This is the Magistrate's brother, I believe, was

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a member there which you people were hoping was the magistrate.

Q. That is quite an improper statement.

A. I am sorry.

Q. It certainly is.

A. I stand by it.

THE COMMISSIONER: What people were hoping it was the magistrate?

A. The Liberal party was hoping that it would be the magistrate.

MR. MacKINNON: This is quite false and quite an improper suggestion, sir.

THE COMMISSIONER: I don't know how he would know that it was.

THE WITNESS: Well, by the questioning that I read in the newspaper about trying to bring some names up.

MR. MacKINNON: Well, I did not bring anynames up and I have been very careful about that. You feel there are sides there. You are taking one side, are you?

A. No, I am not. I am in the vortex as it were.

Q. You will be there for some time yet. I would just prefer you witness, to answer the question and keep your comments for the newspaper reporters afterwards.

A. I haven't made any.

Q. Now, I would like to turn to the Rosedale Club and your interest in that club.

MR. WILSON: Not Rosedale.

MR. MacKINNON: Roseland Club, I am sorry.

THE COMMISSIONER: Just a moment. I am speaking of your taking this magistrate out to the Vets Club. This would be the noon hour, was it?

A. No, sir, I think my recollection would be that we had had our noon rooms. It might have been the noon hour, it might have been.

Q. At that time, you knew, of course, that McDermott and Feeley were running that place as a gaming house?

A. Yes sir.

Q. Now, as a lawyer of some years experience and standing, what did you think of the advisability of taking a magistrate with you out to a gaming house? Did that cross your mind?

A. No, as I look back now it was very indiscreet, but the circumstances were that this was lunch time or in the afternoon - - -

Q. I thought you said it was not lunch time?

A. I said lunch time or in the afternoon, and it was certainly - the place would be deserted insofar as any members.

Q. Wouldn't matter whether it was deserted or whether it was full. It was a

gaming house, and you knew it, and had been operating, was notorious. Yet you take a magistrate along with you out there. What do you think today of your conduct in that respect?

A. Well, of course, I am very sorry that the whole thing happened insofar as this magistrate, and I am very embarrassed for him and very sad that he would become innocently involved in a situation such as this.

Q. He can attribute it to you, can't he?

A. Yes, my lord.

Q. So much for that phase of it. It would improve your standing with your client also if you were going to meet your client there for a sociable drink, it would improve your status with him if you turned up later with a magistrate along with you. Do you pledge your oath that that did not occur to you?

A. Yes, I would, my lord. This magistrate I had known for a number of years very well, and this fact would probably be known to McDermott and I don't see how, after the case was over, the fact that this magistrate and I would have a drink together, or the fact that this magistrate would then come out to this club and have a drink, knowingly having a drink in the presence of an accused

person in a case that had been disposed of - a very I don't know, my lord, it just - it is a difficult thing to explain. It just merely - - -

Q. I entirely agree with that.

A. At the time it seemed like there was no particular harm in it at the time, and as I look back now it was terribly indiscreet, but what is done is done, and at this time although this Cooksville Club was very well known it certainly was not even close to what has been made out of it since events that took place some years after that. In fact, this club at that time - - - -

Q. Now, just a moment. The magistrate did not know where you were taking him until you got there, did he?

A. I don't know. I presume - - -

Q. You are not suggesting the Magistrate knew that you were taking him out to a gaming house?

A. No.

Q. Then am I not right that the magistrate did not know you were taking him there muntil you got him there?

A. I told him where we were going, I told him where I was going.

Q. What did you tell him?

A. I said, "I mgoing to meet my client, McDermott, out at that Cooksville Club,

and we aregoing to have a drink". I just cannot say what the conversation was from there, but it was decided, as I recall - it was in the summer time - that he would like to have a drink, and possibly I said, "Well, if you want to come out and have a drink, go with me".

Q. Don't let us indulge in possibilities. You were the one who suggested to him to accompany you and have the drink, so you told us?

A. That may be, my lord.

Q. No. no.

A. This is 1957 .

Q. Please do not indulge in possibilities. You told us that is what happened. The magistrate was not suggesting to you that he was thirsty and wanted you to take him some place to get a drink. That was your suggestion, isn't that so?

A. That would be my best recollection of it.

Q. Yes.

A. But this was 1957 that this happened, and at the time it did not seem altogether that important on the way out. Now, asthings turned out,it was embarrassing for all concerned, when we got there.

Q. All this would never have come to light if it had not happened that Sergeant

Anderson popped in there?

A. That is right, but bear in mind, my lord, this club at the time was patronized - - -

Q. Excuse me. You have already told us that at that time of the day the club was usually deserted?

A. That is right, sir.

Q. I suppose you expected it would be deserted when even the magistrate got there?

A. Yes sir.

(Page 3720 follows)

THE COMMISSIONER: Q. If your expectations had been realized no one would have known anything about it?

A. I expect that is true, sir.

MR. MacKINNON: Q. Did you try to implicate any other magistrates in a similar fashion, by taking them out to this Club?

A. I haven't tried to implicate any magistrates.

Q. Did you take any other magistrates out to this Club?

A. No, sir.

Q. In a similar fashion?

A. No, sir.

Q. You started to say this Club was not as notorious as it's made out to be. May I just read to you from your evidence and see if you wish to change your evidence. It is page 3569, line 22:

"Well, this club that was "operated in Cooksville was, I "suppose, notorious by reputation. "I don't suppose that there would "be half a dozen people in the "Metropolitan area who hadn't heard "about it and knew that there was "a gambling establishment running "out there."

A. That is right.

Q. "The police had tried for years

"literally years, to put this place "out of business, . . ."
I suggest to you that was the situation in 1957.

A. What I meant was this: It was notorious at this time, in the same sense as the Brookwood Club and Brown Derby were notorious, and it was well patronized by prominent people and itb only as a result of recent events that a different light has been cast on people who would go to that type of club.

THE COMMISSIONER: Q. What is the new light shed on, that you have in mind?

A. I can recall as a young person, before going to the war, making one attendance at the Brookwood Club.

Q. Never mind that. What is the original light, originally respectable people went there; is that what you said?

A. Yes.

Q. Investigation has disclosed some not quite so respectable were frequenters there?

A. At the Cooksville club?

Q. I think that is what you said.

A. No. At that time the Club was patronized by well known business people, and so on, and so forth.

Q. At what time?

A. Before the Club was closed their

membership was quite respectable. As I heard it, McDermott and Feeley bore a good reputation in the gambling business, in the sense they were honourable, the game was a fair and honest game.

Q. It was, nevertheless, a criminal offence?

A. Technically, yes.

Q. In other words, they were honourable criminals; is that what you are saying?

A. Yes, my lord.

THE COMMISSIONER: This would be a good time to have a ten minute recess.

---Short recess.

MR. MacKINNON: Q. Do you have any idea how much these honourable criminals were making out of their activities in the gaming establishments?

A. No.

Q. No idea at all?

A. I would imagine it would be lucrative. How lucrative I don't know.

Q. McDermott was fairly boastful about these things. Did he not tell you he was doing very well indeed?

A. I think so.

THE COMMISSIONER: You think so?

A. Yes. I have no positive recollection

of that but the aura of the thing was success, my lord.

MR. MacKINNON: Q. He drove a white Cadillac?

A. Yes, they both drove Cadillacs.

Q. And Mr. Gebirtig carried a suitcase of $40,000 in cash on one occasion?

A. Yes.

Q. Did you ever handle such large sums of money in cash?

A. Yes.

Q. Would you tell us about those occasions?

A. One - I would like either Mr. Rose's permission or your lordship's ruling - was in connection with a real estate transaction and -- In connection with a real estate transaction.

Q. Where did the money come from, may I ask you that?

A. The bank.

Q. How was it earned?

A. By a capital gain.

Q. You know that much?

A. I have the file on that transaction there.

Q. Is that the only occasion you were involved in a large cash transaction?

A. No, there was another business transaction when, again, money came from a bank,

a large sum.

Q. And brought to you in cash?

A. No. I would have cashed the cheques, gotten the money and turned it over, I think on both occasions, to Feeley.

Q. Was this in connection with Airgo, the second occasion?

A. No. Airgo was another occasion and I don't believe I handled any money with Airgo, to speak of.

Q. It would be your partner who would be handling that?

A. Yes.

Q. Mr. Locke?

A. Yes. But, the proceeds I don't think were disbursed in cash. They were disbursed to other persons in the form of a cheque.

Q. Coming to the Roseland Club, to follow Mr. Wilson's sequence. Had you not heard of the club before you were called on to go down to Windsor?

A. No, I have no recollection of that club at all.

Q. Did Mr. McDermott or Feeley discuss with you securing provincial charters for that club in that year?

A. No.

Q. And at any time you were out with McDermott on the premises of the Centre

Road Veterans' Club in April, 1957, was there any discussion at that time, or shortly thereafter, with you about the securing of new provincial charters for these clubs?

A. No, I never discussed charters with them at any time.

Q. And you played no part in securing the provincial charters they secured a couple of weeks later?

A. None that I know of.

Q. You would remember that?

A. I am sure I would. I have no recollection of discussing charters with Feeley or McDermott, or anybody else, except with this specific court case.

Q. So McDermott retained you, as I understand your evidence, to appear for one of the accused in the Fall of '57 in connection with the Roseland Club in Windsor. Is that correct?

A. Yes, sir.

Q. And you said you proceeded to Windsor shortly before the hearing. Is that correct?

A. I went to Windsor, I think, on two occasions, possibly three.

Q. How did you go down, did you fly down or drive down?

A. I think we always flew.

Q. Would McDermott be with you on each

occasion?

A. My best recollection is yes.

THE COMMISSIONER: Commercial airlines?

A. We flew by commercial airlines on all occasions except one occasion. At that time I had become interested in flying and I was touting flying as a hobby to McDermott and we made arrangements with Central Airways at the Island Airport, for them to fly us to Windsor. At that stage I don't think I had my pilot's licence and a designated pilot by Central Airways flew McDermott and I downto Windsor. And other than that aeroplane ride, which McDermott didn't enjoy, we flew commercial, T.C.A.

MR. MacKINNON: Q. Did Feeley on any occasion go down with you to Detroit or Windsor?

A. I don't recall Feeley there at all.

Q. Just to follow it through: Did I understand your evidence to be that at the end of it McDermott had paid your fees?

A. That is my recollection.

Q. And McDermott, I believe you said, was down there on several occasions. Is that correct?

A. That is correct.

Q. He had a very close interest and connection with this case, quite obviously?

A. Yes.

Q. Do you now swear that at no time did he indicate to you his interest actually in this club?

A. That is right.

Q. You just knew he was not doing it for charity's sake but you don't know what piece he had of the club?

A. I don't know whether he had a piece of the club or was financially involved with the operators of the club, but I had in my mind he was very interested and he was interested in a financial way; but, to go beyond that I couldn't elaborate.

Q. He participated in these strategy sessions you had in the hotel room?

A. Yes, if you want to call them strategy sessions. Yes, he was there all right.

Q. When the question of discovering the truth about this Provincial Police slush fund, as you called it --

A. Hm-hmm.

Q. -- was concerned you were present, I take it, at the meeting at which it was revealed that someone or other in Detroit had been approached, allegedly by Sergeant Hatch, and offered the "keys of the city", you put it?

A. I think my recollection was that I wasn't present at the initial discovery of this situation but that I recalled speaking to this man in person in his store in Detroit,

and I recall discussing it with other persons, including McDermott.

Q. Now, it was McDermott --

THE COMMISSIONER: Just a moment.

Q. The way you have been putting that would indicate that it was a fact, there was a slush fund, and so far that is not the way you put it before.

MR. MacKINNON: I will come to that.

A. Well, I didn't know whether I indicated a slush fund --

Q. You called it a slush fund.

A. Yes.

Q. It was used, that terminology, in its improper connotations. Hasn't it?

A. I believe there are slush funds, money is available for informants, and so forth.

Q. You said for quite honourable purposes in your previous evidence.

A. Yes. I have no knowledge of honourable funds being used for dishonest purposes.

Q. Why did you call it a slush fund?

A. That is what it is called. That is what the police have to pay informers without making a note of the name and address of the person who the money goes to.

THE COMMISSIONER: Q. This is rumour?

A. It wasn't a rumour. It was stated

as a fact by this person from Detroit.

Q. Who was it?

A. His name was mentioned last day. I believe it was Sam's Clothing Store.

MR. MacKINNON: Q. Miller?

A. If that is the name you are suggesting, it might well be.

THE COMMISSIONER: Q. Who suggested it to you?

A. I knew his name at the time. There was no secret about his name. If they say it is Miller, it is Sam Miller.

MR. MacKINNON: Q. It was McDermott who brought him into the picture?

A. That might be so. I presume. I have no recollection. I presume McDermott would mention it to me.

Q. McDermott was masterminding this whole set-up, he was the one who organized this conference and organized the follow-up, the check-up as you put it, on Inspector or Sergeant Hatch by Mr. Rose?

A. I suppose he could fairly be described as the master of ceremonies, yes.

Q. As far as you were concerned, you knew nothing about this man Miller?

A. No.

Q. Weren't you told he had been in frequent attendance at this Roseland Club?

A. No, but I have it in my mind he

must have been in attendance or Sergeant Hatch wouldn't have sought his evidence.

Q. I think that you felt that this story might have some credence, because, as you stated at page 3528 of your evidence, line 5:

". . . I thought it odd that this "person would give a report, come "and report this, since he was in "no way connected with the alleged "gambling establishment."

What did you mean by that?

A. Well, he had no proprietary interest or in any way directly connected with this club at all.

Q. How did you know he had no proprietary interest? McDermott, as far as you knew, didn't have a proprietary interest.

A. I presumed from the way he related his conversation that he was a person in business in Detroit and had been in the club; but that wasn't dwelt on as much as the communications he had with Sergeant Hatch.

THE COMMISSIONER: Q. Are you dealing with what Miller told you?

A. I don't know; it may have been by Miller, by McDermott or the other accused individually. My conversation with this person Miller, if that is his name, would be directed to getting his actual story in relation

to any improper overtures attaching to the accused.

Q. Who, in the first place, told you Hatch had made improper overtures to him?

A. My best estimate would be McDermott. I don't recall being there when this evidence was divulged to the group, as it were, in the first instance.

Q. Did anyone suggest to you that Hatch had made any improper proposals to him?

A. Well, Mr. Curly Gardner would be there.

Q. You have a habit of saying "would be". Who were there?

A. My lord, there were a number of meetings and I can't recall.

Q. All right. Out of all these did anybody except McDermott suggest to you that Gardner (sic) made improper proposals to Miller?

A. Hatch made?

Q. Or that Hatch had made any improper proposals to Miller?

A. I don't even recall McDermott telling me this but I presume, from the way things went, that he would tell me as master of ceremonies, he would communicate this information to me.

Q. Having been told that a scheme was got together at the time to test Hatch. Is

that the idea?

A. Yes, my lord.

MR. MacKINNON: Q. Was not part and parcel of this scheme to find out just what evidence Hatch did have on this club and the accused?

A. No, sir.

Q. It was, in any event, an attempt to discredit Hatch?

A. No, sir, it was not. It was an attempt to investigate whether or not this person Miller was accurately representing to us the fact that Hatch had made improper overtures to secure witnesses' evidence.

THE COMMISSIONER: Q. But Miller hadn't represented anything to you?

A. Oh, yes.

Q. I thought he represented it to McDermott.

A. In the first instance, and I heard about it.

Q. You heard about it from McDermott?

A. I presume so. And I recall personally speaking to Miller in a store in Detroit. It was probably this same store. And I was under the impression he worked there, rather than it was his store, and I think I would talk to him.

Q. You would or did you?

A. Yes. The gist of what he told me

was that Hatch had approached him with a view to him giving evidence against this club, to testify.

Q. Yes?

A. And he said he didn't want to and Hatch said something to him to the effect there would be money available to him if he would; that he would have, as I put it the other day, the keys of the city, the police would look on him as a great benefactor and turn a blind eye to any other activities he might want to engage in.

Q. Such as?

A. I have no idea.

Q. Of improper activities?

A. Yes. And if he didn't co-operate the police might take an entirely different view of him and make things difficult for him.

Q. Where?

A. In Detroit.

Q. What police?

A. The Detroit police, who were related to us were working along with Sergeant Hatch.

May I explain the importance of this? This case the Crown had, we know, would be of a very circumstantial nature and it would be important for the police to try and get a person to come to court who had participated in

the alleged illegal gambling and to so testify before the magistrate. This sort of added more credence to the thing, with the anxiety, quite properly, by the police officials to have an eye witness, as it were, might possibly have resulted in this type of pressure being brought to bear on a witness. I never heard of Sergeant Hatch before, by reputation or otherwise, and I spoke to this man and it was important to investigate if such improper inducements were being held out to potential witnesses. As it turned out there wasn't and that was the end of it. And at that stage Mr. Rose went back to Toronto.

MR. MacKINNON: Q. Did I understand the Detroit police were going to give this man protection?

A. Yes, the Detroit police' co-operation would be secured through Sergeant Anderson.

Q. That was the story you had?

A. That was the story.

Q. Then, did I understand you to state the last day you did not attend the meeting at which it was decided that Mr. Walton C. Rose would pose as a shirt salesman and pretend he had some knowledge of this club?

A. I don't know that I did, although I discussed, I know, the matter with Mr. Rose before he embarked on his investigation.

Q. You said Mr. Rose was to come down from Toronto to Windsor?

A. Yes.

Q. Mr. Rose has already given evidence, in part, and he has sworn under oath he only attended on one occasion in Windsor and Detroit in connection with this matter. He also stated under oath you and he were room mates when he was down there.

A. That is right.

Q. Does that refresh your memory any, as to whether you were at this final conference where it was decided Mr. Rose would do this posing and see what he could find out?

A. No.

Q. Do you disagree?

A. No.

Q. You could have been at this conference where it was decided Mr. Rose would do this act?

A. I don't think I was but I could have been there. That is right.

THE COMMISSIONER: Q. Whether you were or were not, you discussed the matter with Mr. Rose?

A. Yes, whether I was or was not I discussed the matter with Mr. Rose.

Q. And you knew what was decided on?

A. Yes, my lord.

MR. MacKINNON: Q. And you knew that he attempted to carry it through?

A. Yes, my lord. Or --

Q. Do not promote me just yet. He had, I take it, posed as a shirt salesman, Mushy Rose?

A. He was to be Mushy Rose from New York and in the garment business. Whether he elaborated that into the shirt business I don't know.

Q. Did you think this was a proper function for a solicitor to perform?

A. Yes. I had some, just some reservation about it, I know, but I thought it was proper, but I had some reservation about it because I know, just before the case started, Mr. Martin, who knew nothing about this, you know, and I communicated this information to him. It seemed, well, out of the ordinary.

Q. I agree with you there.

THE COMMISSIONER: Q. Mr. Martin did not approve of it?

A. I don't recall what his reaction was, my lord.

MR. MacKINNON: Q. He knew nothing about it?

A. He knew nothing about it at all.

Q. And I suggest that was deliberate?

A. Well, it may have been deliberate but he just wasn't there at that time. But,

it may well have beenn deliberate on the others. As I say, I myself deemed it advisable to appraise him of what had taken place.

THE COMMISSIONER: Q. And he disapproved of it, didn't he?

A. I have a feeling that he would. Whether he said anything at that time or not, I don't know.

Q. Not that he would or might, or anything else. Did he, in fact, disapprove?

A. I don't recall him saying anything to me, that he indicated his disapproval, but I have a general feeling that he did or he would, and that is as far as I can go.

MR. MacKINNON: Q. You raised no objection to this procedure?

A. No. I raised no objection to it.

Q. Was Mr. Herman present at this strategy meeting or meetings where this was decided upon?

A. I don't recall.

Q. Well, now, isn't it true, Mr. Herman came down a number of days ahead of the hearing?

A. My impression would be that he did not. He might have.

Q. Did he come down with Mr. Rose? Does that help you any?

A. My impression, again, is that he

it may well have been deliberate on the others.

As I say, I myself deemed it advisable to

appraise him of what had taken place.

THE COMMISSIONER: Q. And he disapproved

A. I have a feeling that he would,

whether he said anything at that time or not,

I don't know,

Q. Not that he would or might, or

anything else. Did he, in fact, disapprove?

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anything to me, that he indicated his disapproval,

but I have a general feeling that he did or

he would, and that is as far as I can go.

MR. MACDONALD: Q. You raised no

objection to this procedure?

A. No. I raised no objection to

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strategy meeting or meetings where this was

decided upon?

A. I don't recall.

Herman came down a number of days ahead of

the hearing?

A. My impression would be that he

did not. He might have.

Q. Did he come down with Mr. Rose?

Does that help you any?

A. My impression, again, is that he

did not.

Q. Mr. Rose has sworn he came down together.

A. I know that.

Q. You know that?

A. Yes.

Q. He told you about it?

A. Yes, he told me about it, and I was called in error about that and I said, "That's my best recollection".

Q. So, if that is so, Mr. Herman would be down there a number of days ahead of the hearing?

A. I guess that is so.

Q. So that would not be coming down just to put the charter in evidence?

A. If he got down a number of days ahead there would be other matters he would discuss; that is right.

Q. And he was retained by Mr. McDermott as well as Mr. Rose?

A. I can only presume that; I have no knowledge of that.

Q. Now, the trial, or the hearing, there was first a plea of not guilty which was changed, was it not?

A. Yes, sir.

Q. So that your evidence that you pleaded guilty --

A. I think we pleaded guilty. We

plea of guilty --

A. I think to pleaded guilty. So

Q. So that your evidence that you

was changed, was it not?

A. Yes, sir.

Q. Do you see a place of not guilty with

me? I'll put a check mark there.

A. I can only presume that; I have

no recollection of that.

Q. Now, his trial, on the docket,

Monumental Bail Bonds on it. Does

that to you refresh your recollection as to

whether there was an order entered in your

favor: case is tried.

A. It may be you have a number of cases

of the docket

Q. So that would not be showing those

would be more there a number of cases already

A. I guess that is so.

Q. Did you see Mr. Bernard

was called in answer thereto and I said,

"Mr. [illegible] Bail Bonds?"

A. Yes, he told me about it, and I

changed our plea after about half an hour.

Q. Was not it after Mr. Atwood had given evidence?

A. Yes.

Q. And it was his brother who was murdered. Isn't that correct?

A. Yes, that is what the newspapers had.

Q. And I take it not only were your travelling expenses paid by Mr. McDermott but I suppose your hotel bills?

A. Yes.

Q. Did you prepare accounts on these things?

A. No.

Q. You did not submit itemized accounts of what you had done?

A. No.

Q. Do you keep docket entries?

A. We have ledger entries where we put our fees in the book.

Q. Have you docket entries on what you did on any particular file?

A. No.

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E/ADO'M/1

Q. Now, I suggest to you this, that these strategy conferences or this strategy conference, where it was decided Rose would act as a shirt salesman, that Giacalone was present?

A. No, I have no recollection of that at all.

Q. Would you say, if some one else has a recollection of his being present, would you be in a position to contradict that?

A. I would be very tempted to, because my recollection is that he was not. But there is, I suppose, a possibility that he was there.

Q. I notice in your evidence that you said, when you did meet Giacalone, he seemed to be more interested in what was going on than Carrotta; is that correct?

A. That was my impression.

Q. What gave you that impression?

A. Well, he was more interested in discussing the case and different bits and pieces of evidence that might be presented by the Crown and so on and so forth. He just took a more active part in discussing this matter, and as far as I can recall, Carretta was interested very little about it, really.

Q. I gather from you it was more than mere curiosity, this interest?

A. It seemed that way to me, yes. Yes, it did.

Q. And I suggest to you, this dinner that you attended, so long as you did attend it, was not a social engagement but was a business engagement, so far as Giacalone and McDermott were concerned?

A. No, I can't say that. I recall that it came up to dinner time and we had dinner. Now, whether these persons met us at the hotel and went with us to the restaurant, or met us at the restaurant, I can't recall. But at this meeting Mr. McDermott was interested, Mr. Giacalone was interested, and at this stage, I think Mr. Rose and I were prepared to discuss something else and Mr. Corrotta indicated mild interest, and not as much, Giacalone.

Q. Once again, you never discussed with McDermott what Giacalone's interest was in the club?

A. No.

Q. Or with Feeley what Giacalone's interest was?

A. No.

Q. You didn't ask him, as a matter of curiosity after it was over, "What has Giacalone got to do with this?"

A. No.

Q. It never crossed your mind?

A. If it did cross my mind, I rejected it from my mind. I wouldn't wish to secure

such information.

Q. You wouldn't wish to secure such information. Why? Would it be dangerous? Why wouldn't you wish to secure such information?

A. Well, it is just a general habit, I suppose, of not wanting to know any more of my client's business than you have to, to actually prepare a case.

Q. Yes, but you were going on vacations with these people. You were meeting them socially on fishing trips and going down to Florida and Jamaica. Do you say you never raised it in the course of general conversation with them?

A. No. No, never.

Q. But you certainly, I gather from your evidence, had the impression that Giacalone and McDermott were no strangers to one another?

A. Yes, that would be a fair statement. Although, I have no specific knowledge of their knowing each other. They seemed to know each other.

Q. Now, I want to go to your rather interesting explanation of this mortgage which was taken in your name.

A. Yes.

Q. You stated, as I understood your evidence, it was to protect Mrs. Gardner from Mr. Gardner's compulsive gambling; is that correct?

A. That is my impression. That is right.

Q. You described it as a straw transaction?

A. I did describe it as that, but I was inaccurate, having gone over my books last night in that regard.

Q. Well, did you receive some money for this deal?

A. No, I didn't participate at all, but going over our accounts last night, Ifound a deposit into our clients' trust account of, I think, of $5,050 on one day, and that ona day or two later that amount went out to a law firm in Windsor, I think. So my recollection is now, that there was moneys put up to clear off existing encumbrances, although I don't think I, personally, did these things myself. I think they were done in my office by somebody else who deals with real estate matters, and when these encumbrances were cleaned up and the mortgage was put on, and then there was, as I recall it, a discharge was drawn up at that time, but you will recall it wasn't executed until later.

Q. Why did you not have your name shown as trustee on the deed?

A. I don't know.

Q. You don't know? You were the lawyer advising these clients, weren'tyou? Did

B. Then in my figuring. That is right.

C. You described it as a silver gauntlet.

A. I did describe it as that, but I was discovered, having gone over my books late night in June record.

Q. Well, did you receive some money for this deal?

A. No, I didn't receive money, I found a deposit into our citizens' bank account of, I think, of $5,000 on one day, and then one day or two later that amount went out to a Jew firm in Indiana, I think. So my recollection is now, that time we was moving put up to close out existing conditions, although I can't [illegible], definitely [illegible].

I think they were done in my office by somebody else who could talk real certain matters, and time moving was put on, and then there was as I recall it, a discharge was drawn up as that time, but you will recall it wasn't executed until later.

Q. Why did you not have your name signed on the deed?

A. I don't know.

Q. You don't know? You were the

you just do what they told you to do?

A. NO, I don't recall discussing whether it would be done as trustee or not. As a matter of fact, I only discussed the basic principle with them and I am sure somebody else in my office did it.

Q. You are shown here as the mortgagor?

A. Yes.

Q. And you signed thedischarge.

THE COMMISSIONER: As the what?

MR. MacKINNON: Mortgagee, rather.

Q. And you signed the discharge as mortgagee; is that correct?

A. Yes.

Q. Now, let me read your evidence:

"So they might give it to Mrs. Gardner
"so that she would be protected against
"her husband's gambling."

A. Yes.

Q. You say:

"No, that was just a straw transaction
"to encumber the property so Mr.
"Gardner couldn't do anything to
"impair the home."

I take it,this is what you were told, so Gardner couldn't do anything to impair the home. Have you ever heard of the Fraudulent Conveyances Act?

A. I don't think so.

THE COMMISSIONER: What?

MR. MacKINNON: Q. How long have you been

practising?

A. Now, I haven't ever practised real estate law.

Q. You were handling business deals for these gentlemen, weren't you?

A. No.

Q. You talk about an apartment building?

A. Yes, my partner did that.

Q. You didn't figure it wise to call your partner in on this little transaction?

A. I think he may have done it, or a student may have done it.

Q. What was the purpose? To defeat Mr. Gardner's creditors, wasn't it?

A. I don't know if he had any creditors.

Q. How was it going to protect Mrs. Gardner??

A. Well, because he is, as I say, a compulsive gambler. It was felt unless the house were really encumbered that he would go out and put another mortgage on it.

Q. How? She was there as joint owner?

A. I don't know. Possibly he would sign her name or something, or badger her into it. I think in the final result he talked her into putting a discharge down and talked her into giving him the house and putting it down on a gamble.

Q. Well, we will find that out. I am

asking you now, how was this to protect her? In other words, it was to protect Mrs. Gardner against Mr. Gardner's creditors; is that right?

A. No.

Q. From gambling creditors or anything else?

A. No, I didn't have that in mind. It was to protect her from her husband.

Q. I would like you to explain to me in what way it would protect her from her husband.

A. Well, instead of he being a joint owner of the house, and I have no idea of the value of the house at all, assuming for the moment $5,000 was needed to pay off the existing encumbrances, he would be half owner of a house that would have, perhaps, some considerable equity. I don't know. And somehow, by hook or by crook, he would do something to further encumber the house and get something out of it, to put her in a very difficult position.

Q. Would this straw transaction protect her? Were you prepared to perjure yourself in that regard if somebody said to?

A. No, I wouldn't perjure myself.

Q. They would find out immediately?

A. Yes, they would find out immediately if the house had a large mortgage against it and that he wouldn't be able to go out and encumber it. Any person who would advance a

second or third mortgage would say, "We can't do it." He would do anything to get something to gamble.

Q. Why didn't you have him convey the property outright, as he subsequently did?

A. I didn't discuss it with him at all. This was McDermott's idea.

Q. You were the lawyer?

A. Yes.

Q. Were you advising McDermott what to do in this case?

A. McDermott told me, "This is what we plan to do."

E/2 Q. Why was your name used? Why didn't McDermott use his own name?

A. I suppose to protect any connection he had with Gardner, I don't know.

Q. Didn't you ask? Do you allow your name to be used like this? As trustee, with equanimity? No questions?

A. I did. I say at the time my impression was the discharge was executed at that time and sent along to the lawyers or to Mrs. Gardner.

Q. The discharge was dated some six months later?

A. I think it was originally dated at the same time and then crossed out.

Q. It was originally, and then changed and your initials were opposite it, you admitted?

A. Yes.

Q. Which would show that you saw it some time in November, 1958?

A. Yes, I initialled it.

Q. You allowed your name to be used by these people on other occasions, haven't you, as their front, so to speak?

A. No, I can't recall any other.

Q. Were you never shown as the owner of an aircraft in which they had an interest?

A. Well, there was three aircraft involved. The first one was KPL. That was one. I think I had my pilot's license by that time and they were interested in taking flying lessons and they said for me to get out and get an aircraft and "We will pay for it". I went out and got it and put it in my name.

Q. You had no financial interest in it, did you?

A. Well ---

THE COMMISSIONER: Do you understand what is meant by "financial interest"?

MR. MacKINNON: I am talking to a lawyer, your lordship.

THE WITNESS: Proprietary interest. This aeroplane was to be secured for our mutual enjoyment, as it were.

MR. MacKINNON: Q. You weren't putting any money into it?

A. No, I wasn't putting any money

into it. They each went for a ride in it and they said it was a cardboard aeroplane and they gave it to me. They said they are not going to fly in a cardboard aeroplane and I flew it for some considerable time, and at some stage of the game it was decided when they were becoming interested in flying and taking lessons, so the first aeroplane was traded in on XQC, the first 180.

Q. In whose name was that put?

A. George Reid's name.

Q. In care of you?

A. When you own an aeroplane you get piles of literature coming from different people and I think my address at that time was where they were at that time.

THE COMMISSIONER: Q. Why?

A. Well, I was the person doing most of the flying of the aeroplane and communications with regard to the aeroplane and so forth and so on, and letters would be sent to me at my address.

Q. Your address?

A. Yes.

MR. MacKINNON: Q. Did I understand you to say, this story was, it was completely up to you to buy the first plane and the plane was put in your name?

A. Yes.

Q. And then they had a couple of rides

in it and then they didn't want to ride any paper aeroplane, as you put it?

A. Yes, sir.

Q. And then they gave the plane to you?

A. Yes.

Q. So then you became the outright owner?

A. I objected. I said I didn't want to accept the aeroplane.

Q. Then, what you said a moment ago, is it right, they gave you the plane?

A. They said, "We have no further interest in it. It is your plane, do what you like with it."

Q. They said that it was yours, outright?

A. Yes.

Q. It was in your name and it was made perfectly plain to you, Mr. Humphrey, that this is your plane, do what you like with it?

A. Yes, that is what they said.

Q. And then the second one was bought. What happened to the first one?

A. It was turned in on the second plane.

Q. Your property was turned in as part of the purchase price on the second plane?

A. I didn't consider it my property, that plane.

Q. They either gave it to you or they didn't. Now, you have sworn positively that it was in your name and they said, "We are no longer interested in it, it is yours"?

A. Yes, that is what they said.

Q. That is what they said. And I suppose you took them at their word?

A. I told them that I didn't want the aeroplane.

Q. Why wouldn't you want the aeroplane?

A. Well, I just couldn't see why they would just give me a $3500 aeroplane.

Q. What difference does it make when they were so generous with you? They were, in fact, generous with you when they gave you the plane?

A. They gave it to me.

Q. All right.

A. If you will ---

Q. All right, then a second plane was bought?

A. That is right.

Q. And the one that stood in your name and which you were absolute owner of, was turned in as part of the purchase price on the second plane?

A. That is right.

Q. But the second plane was taken in the name of George Reid?

A. That is right, sir.

Q. Were you going to supply part of the purchase price of the plane that was going to be Reid's property?

A. No, sir.

Q. Whose property was it?

A. It was registered in Reid's name.

Q. What I am asking you is, whose property the second plane was?

A. As far as I was concerned, McDermott's, Feeley's and Reid's, because at that time, my lord, as I say, they wanted me to have the aeroplane and I said, "I am not disposed to take it", or words to that effect, and they said there was no reason why I couldn't fly it for a while, and then they became real interested in flying and decided to buy a flont plane, and I said, "Here, take this plane. It is not my plane anyway, it is your aeroplane." And it was turned in.

Q. Why was it taken in Reid's name?

A. McDermott claimed that Reid was putting the money up for it. I don't sayI believed that. McDermott said that Reid won a lot of money gambling and inherited a large sum of money and they talked Reid into buying an aeroplane.

Q. Wasn't Reid their nominee, just as you were?

A. I thought of Reid as a nominee, yes.

Q. You knew it. You know who Reid is?

A. Yes.

Q. You knw of his associations with Feeley and McDermott, don't you?

A. Yes.

Q. Yes, you know.

THE COMMISSIONER: Q. It is on one of the exhibits, isn't it?

A. I don't think so, my Lord. I think that is Ryan, your lordship.

MR. MacKINNON: Q. Did you ever swear an affidavit for the purpose of the Air Regulations or Air Transport Board, swearing you were the owner of an aircraft?

A. I don't recall it.

Q. Could you have done?

A. On the KFL, yes. With the other two, no.

Q. KFL, is that the one which you say was given to you as a gift?

A. Yes.

Q. Would that affidavit be true or false?

A. Well, it would be true to the extent that the aeroplane was registered in my name and I was, to that extent, the owner of the aeroplane.

Q. Did you look at the Regulations?

A. What Regulations are they?

Q. Governing the ownership and registration of aircraft?

A. No, sir.

Q. Well, Mr. Commissioner, I wish to come back to this point later. I understand Mr. Wilson will be going into Airgo at a later stage.

E/3

Now, possibly I can ask this. Did not the George Reid aircraft get re-transferred into your name later, subsequently?

A. I don't recall that.

Q. Well, is there any other occasion that you allowed your name to be used by Peeley or McDermott?

A. Not that I recall.

Q. How about this hotel registration?

A. I have no knowledge it was in my name, until some time later.

Q. Didn't you sign on the chits?

A. I don't think so.

Q. I thought you acknowledged that you signed at least one chit?

A. No, I looked at one and I thought it was not mine and I looked at the other two and thought they might be mine, but upon further examination, I don't think they are mine. But if I were in the hotel room, knowing it was registered to McDermott or Peeley or the mining company, I would sign my name if I were available to sign for it.

Q. There is at least three occasions when they have used your name. There is the mortgage in 1958?

A. That is one.

Q. And the aircraft, was it 1958, as well?

A. I don't recall, it mightbe.

Q. I think it was, wasn't it?

A. It might be, I don't recall.

Q. And the hotel room. Can you think of any other occasions when your name may have been used by these people?

A. No.

Q. Now, to go back to where we started on this mortgage that you say was put on to protect Mrs. Gardner from Mr. Gardner. It was put on -- it is dated the 5th day of May, 1958. Now, that is very shortly after Curly Gardner was released from prison; isn't that correct?

A. I presume so, yes.

Q. In fact, it is only a couple of weeks after. Did you have anything, any part to play in Curly Gardner's early release from jail?

A. No, I don't think so.

Q. Now, do you know ---

THE COMMISSIONER: Q. What do you mean when you say you don't think so? Surely to goodness you would know.

A. I don't remember. I recall seeing him in jail once.

MR. MacKINNON: Q. You went up to see him, did you?

A. Yes.

Q. On whose instructions?

A. I went with McDermott to see him at Kingston Reformatory.

Q. I see.

A. And that was, as I recall it being discussed, something about he wanted to get out and what about a parole and so on and so forth. I recall discussing it, but no further, as far as obtaining his release.

Q. McDermott gave you no further instructions in this regard?

A. No, sir.

Q. And this would be in 1958?

A. Yes.

Q. And as he was sentenced in January, 1958, and released in April, 1958?

A. Yes.

Q. So you were in close contact with McDermott during this period of time, quite obviously?

A. Yes, I was in intermittent contact with him through the years.

Q. I will be coming to Bertie Township, which took place during that period as well. The Bertie Township, raids on the Fort Erie club. I believe you told us you were receiving instructions from McDermott in that connection, as well?

A. That is right.

Q. Now, was there any discussion by you with Feeley and McDermott or both of them that having got Gardner out of jail this mortgage was one way of keeping tabs on him, to make sure

he wouldn't talk? So long as the mortgage was there, to see that he would behave himself or not?

A. No, I don't recall any such suggestion.

Q. It was never intimated to you?

A. No.

Q. Were you advised why, six months later or so, a discharge was to be handed over and delivered?

A. No. As I say, my only recollection is that the discharge was drawn up at the same time and I have no recollection of executing a discharge, although it appears that I did in November.

THE COMMISSIONER: Q. Was there any consideration given for the discharge?

A. No, sir.

MR. MacKINNON: Q. Did you play any part in paying money to Gardner's family?

MR. ERWIN: I wonder, my lord, if we could have the mortgage and discharge put in as exhibits?

THE COMMISSIONER: (Inaudible)

MR. MacKINNON: Q. Did you play any part in paying any money to Gardner's family while he was in jail?

A. No, I don't think so.

Q. Don't you know?

A. No.

Q. You don't know. Is it possible?

A. I can't conceive of how. I don't recall ever meeting Mrs. Gardner and I certainly never gave Mr. Gardner any money.

Q. You never forwarded any money by mail?

A. Not that I recall, no.

Q. Or to the Finnigan family, when Leo Finnigan was in jail?

A. I remember seeing Mrs. Finnigan on a couple of occasions. I think we appealed Finnigan's case. I don't know. I know I was in contact with Mrs. Finnigan and her two boys. I know they were in very destitute circumstances. Now, whether —

Q. Did you give her money while you met her, on McDermott's instructions?

A. I have just a vague recollection of giving Mrs. Finnigan something. Whether in person or not, I don't know.

THE COMMISSIONER: Q. Well, if it wasn't in person, how was it?

A. The only other way it could be, would be by mail or through an intermediary. I recall meeting Mrs. Finnigan at the airport in Windsor, and I recall it was under very destitute circumstances, and I have a bare recollection of something being done for her, although I have no actual recollection, and if there was anything done for her, it would come from McDermott.

Q. Gardner's evidence was that while he was in jail that McDermott supported them, supported Mr. Gardner's family.

A. Maybe. I have no knowledge of that.

Q. Does that bring anything to your mind?

A. No, Sir.

MR. MacKINNON: Q. You never discussed this with McDermott?

A. No, Sir.

Q. Well then, was it E. or I. McDonald that acted as agent for you in this matter, whose name appears on the back of the discharge?

A. No, I don't think so. There was a law firm, a father and son, and we looked him up in the law book, and I think my partner had gone to school with the son, and I think that is why we asked him.

Q. It appears there is an I. McDonald or an E. McDonald?

A. I don't recall anything to do with the discharge beyond having, as I thought, executed it at the time the mortgage was drawn up.

Q. That was registered December 9th, 1958, and I have here a document dated the 10th day of March, three months later, being a conveyance from John F. Gardner to Bertha M. Gardner. Did you know that happened?

A. No, Sir.

Q. Wasn't that the best way of all to protect Mrs. Gardner? To convey the property to her? Apparently Mr. Gardner was willing to do this?

A. It seems to be the best way.

Q. But you didn't suggest this to McDermott?

A. All I recall is his coming in and saying, "This is what we want to do to protect Mrs. Gardner and we will clean up this mortgage and put a big one on." I gave it no more thought than that, knowing Curly Gardner would use any means at all to get money to gamble with.

THE COMMISSIONER: Q. How did you know that?

A. He told me all about it when preparing his case.

MR. McKINNON: Q. Who told you?

A. Curly Gardner and Leo Finnigan. Leo Finnigan was a partner in a million dollar radiator company and he lost everything. Gardner, with anything over $100 in his pocket, would run over to Barbette Gardens in Detroit and lose it.

Q. You say he had no interest in the Roseland Club?

A. I don't know. He was just a gambler.

THE COMMISSIONER: Q. Did he tell you what his association was with the Roseland Club?

He confided in you about everything else?

A. I thought he did.

Q. What did he tell you?

A. The only time he would tell me ---

Q. I didn't ask you that. I asked you, what did he tell you?

A. I claim privilege on that, my lord.

Q. You weren't acting for him?

A. We were in a close group of lawyers acting for a group of accused, and as I say, we picked and chose Mr. Martin and that was shortly before we appeared in Court.

Q. He told you that he was a compulsive or inveterate gambler and you thought he was a compulsive gambler?

A. Yes.

Q. And if he ever got $100 he would go to Detroit and lose it?

A. Yes, sir.

Q. Now, I am asking you, did he tell you what his connection was in the operation of the Roseland Club?

A. My answer is that I ask you, your lordship, to rule, if I received that information during the preparation for trial for a defence, that this is where that is privileged.

Q. Well, he has told us.

A. If your lordship rules he has waived the privilege, I am perfectly willing to discuss it.

THE COMMISSIONER: Mr. Rose, do you suggest this is subject to privilege?

MR. ROSE: Frankly, my lord, I was thinking of something else. I wasn't listening, Mr. Commissioner. Perhaps you might refresh my memory on this. What was this about?

THE COMMISSIONER: Well, we will adjourn now and you can learn about this at the noon recess.

---Whereupon the Inquiry adjourned at 1.00 p.m. until 2.15 p.m.

(Page 3760 follows)

"AA/1/AD"

---On resuming at 2:20 p.m.

---The witness returned to the witness box.

MR. MacKINNON: Mr. Commissioner, I have here the Home Edition of today's Toronto Telegram, and the headline reads: "Mr. X Wants To Tell All". Apparently, if one is to believe this newspaper report, Mr. Roberts must have told the reporter this. I do not know whether you, sir, have any information on this.

THE COMMISSIONER: I have not seen it. Who is Mr. Roberts?

MR. MacKINNON: Attorney-General Kelso Roberts.

THE COMMISSIONER: Yes.

MR. MacKINNON: He must have advised this newspaper that he had received a wire from Mr. X, asking the Attorney-General's Department to send someone to his home and get a deposition:

"The reason: He says he has been
"harrassed by underw orld habitues
"who are sure he told all about them
"to Crime Commissioner Mr. Justice
"Roach."

THE COMMISSIONER: Yes.

MR. MacKINNON: And this might be the occasion, then, sir, to have my friend, Mr. Rose, advise him that if he wants to tell all, it

have here the Home Edition of today's Toronto Telegram, and the headline reads: "Mr. X Wants To Tell All". Apparently, if one is so minded, [illegible] must have told the reporter this. I do not know whether you, sir, have any information on this.

THE COMMISSIONER: I have not seen it.

Who is Mr. Rogers?

[illegible]

THE COMMISSIONER: Yes.

MR. MacKINNON: He must have received this newspaper that he had received a wire from Mr. X, asking the Attorney-General's Department to send someone to his home and get a deposition:

"The reason: He says he has been
"harrassed by underworld characters
"who are sure he told all about them
"to Crime Commissioner Mr. Justice
"Roach."

THE COMMISSIONER: I see.

MR. MacKINNON: And this might be the occasion, then, sir, to have my friend, Mr. Rose, advise him that if he wants to tell all, it

would be refreshing if he does, and I would suggest that he be brought back to tell all.

THE COMMISSIONER: I said I wanted him back.

MR. MacKINNON: There is another headline which says, "Roach Intends to Keep Them Hopping," but looking at it initially ---

MR. BREWIN: That is my client.

MR. MacKINNON: But in reading the story, sir, it does not refer to you; it refers to my learned friend's client.

THE COMMISSIONER: Yes.

MR. MacKINNON: There was a question, sir ---

THE COMMISSIONER: Mr. Rose is rising to say something.

MR. ROSE: Yes.

MR. MacKINNON: I am sorry.

MR. ROSE: I had my memory refreshed, sir, or rather my lack of attention corrected. I am informed, according to the evidence, that at the time of the hearing in respect to the charges against the alleged keepers of the Roseland Club, of which Gardner was one, several counsel were there acting for several accused. There seemed to have been a group effort on both sides.

I take it from the evidence of Mr. Humphrey that when Gardner was speaking to him he was speaking to him as one of the counsel involved in the defence, and I believe at that

time they had not as yet divided up who was going to act for whom, and it would seem, prima facie, that the information that he was giving to Mr. Humphrey would be information given to counsel in respect to the charge which had been laid in contemplation of defending that charge before the Court.

Now, I do not know whether or not Gardner waived any right of privilege during the course of his evidence here because, as you will recall, sir, I was not here the first day.

THE COMMISSIONER: Yes.

MR. ROSE: Although I was here, I believe, the second day, when Gardner's evidence took about half a day or slightly longer.

MR. MacKINNON: It took practically all day.

MR. ROSE: As to whether or not Gardner waived his privilege, sir, I do not know, and that is something, you perhaps would have a note of or that the evidence would disclose.

THE COMMISSIONER: He waived his privilege with respect to what?

MR. ROSE: The question as to what his position was.

THE COMMISSIONER: What privilege do you suggest that Mr. Gardner had before me?

MR. ROSE: I am not suggesting that he had any privilege before you.

THE COMMISSIONER: What are you talking about?

MR. ROSE: I am talking about whether or not what he has to say to Mr. Humphrey in line with the present question was a privileged communication, and I would say that prima facie it would be.

THE COMMISSIONER: We have Gardner's evidence as to the part he played in the Roseland Club.

MR. ROSE: Yes.

THE COMMISSIONER: I do not think Mr. Humphrey is going to add anything to it that he was not able to say.

MR. ROSE: Well, be that as it may, you have my submission.

THE COMMISSIONER: All right.

MR. MacKINNON: You, sir, had asked this witness what Mr. Gardner had told him as to his position and interest in the club, and I am wondering now if this witness ---

THE COMMISSIONER: I do not think I will have this witness answer that at the moment.

MR. MacKINNON: Very well.

THE COMMISSIONER: As I said earlier, I do not think it is going to serve any purpose.

MR. MacKINNON: No.

THE COMMISSIONER: We have Gardner's evidence as to the part he played.

MR. MacKINNON: Yes. Well, that was not

the question that was put by me to this witness; it was a question that you had put to the witness.

THE COMMISSIONER: Yes.

MR. MacKINNON: Now, you stated in connection with your dealings with Gardner and McDermott that the reason you allowed your name to be used on this mortgage as mortgagee, so far as the world was concerned, was because of Curly Gardner's compulsion to gamble and to protect his wife from the results of that compulsion. Is that correct?

A. That was my impression.

Q. Now, were you advised that Curly Gardner had taken some sort of a cure or some recovery had been made in his state; that in six months he had overcome this compulsion and you were therefore directed to sign the discharge and date it November 21st?

A. I have no recollection of executing the discharge ---

Q. You knew it had been delivered, of course, because your initial is on the discharge of November 21st, 1938?

A. I must have executed it, but the only recollection I have is that the discharge was executed at the time the mortgage was drawn up.

AA/2

Q. Had you no information that at that time Gardner was a reformed character and

that Mrs. Gardner no longer needed protection?

A. I think there was some talk that Gardner was going to give up gambling and get into some type of business and that type of thing.

Q. Yes.

A. I think there was some talk about that, but as far as my giving a discharge or not giving a discharge is concerned, that would have nothing to do with my wants or otherwise.

Q. Didn't it have something to do with you as allowing your name as a lawyer to be used on this transaction which, according to your evidence, was a straw transaction? Would you have allowed your name to be used regardless of what explanation McDermott gave to you? Is this your practice?

A. No, my recollection was that I had a discussion with McDermott with a view to encumbering Gardner so that he could be protected against himself and his wife also be protected, and I was asked, "Would that be all right?", and without giving it too much thought, I said, "Fine", and somebody in my office undoubtedly did the paper work, and I recall telling McDermott that what we should do would be to get a solicitor in Windsor to handle it, and I think I phoned or wrote to the solicitor - something along those lines -

and as far as the discharge is concerned, my impression is that the discharge was executed at the time that the mortgage was drawn and was to be delivered to Mrs. Gardner so that she would have, in a sense, that control over the property and over her husband. That is my recollection of the situation.

Q. And you do not remember how the discharge got back into your hands six months later to be initialled and amended?

A. I have no recollection of that at all.

Q. No recollection?

A. No.

Q. You have no file on this?

A. Not that I know of. I haven't seen any file on this.

Q. No fees were charged?

A. I can't tell you without going back into my books.

Q. You said you have been checking in the last few days?

A. Yes.

Q. Do you know whether you charged anything?

A. No.

Q. You did not notice whether you had or not in checking through your books recently?

A. No.

Q. And you stated at this stage in your examination that you, at this time, had two secretaries?

A. Which time?

Q. Margaret Benson and Mary Loucran? This was in May, 1958.

A. Well, we had a number of secretaries. I just couldn't say who they were at that time. Our mainstays, it seems to me, during that period of time were Miss Loucran and Miss Benson.

Q. Miss Loucran and Miss Benson?

A. Yes.

Q. Are they still with you?

A. No, neither of them are.

Q. Could you tell me where they are, or do you know?

A. Miss Loucran is engaged as a legal secretary somewhere in the City, I don't know for what firm. In fact, I ran into her on the street by coincidence a week or so ago, and she said she was working in a law office, and Miss Benson is deceased.

THE COMMISSIONER: Do you know the law offices?

A. No. I know that Miss Benson left us to go to work for Eccleston and Kane, and she was employed there when she died, and I don't know the law firm that Miss Loucran is at, but I imagine I could find out.

Q. Would you know it if you heard it?

A. No, I do not think I would.

MR. MacKINNON: Q. Would you have had her home address when she was working for you?

A. It would be at the office somewhere.

Q. And that would be available if you were to be asked for it?

A. Yes, there is no doubt of that.

THE COMMISSIONER: What was her first name?

A. Mary, my lord.

Q. Mary what?

A. Loucran.

Q. How do you spell that? Is it L-o - - -

A. L-o-u-c-r-a-n.

Q. Thank you.

MR. MacKINNON: Q. Now, as I have advised you, a mortgage was -- a discharge of the mortgage was registered on December 9th, 1958.

A. Yes.

Q. Was it shortly thereafter that McDermott complained to you that Gardner was threatening him?

A. It was at the time or very shortly before the time that I went to see Deputy Commissioner Kennedy, whenever that was.

C. Would you know it if you heard

A. No, I do not think I would.

MR. MacKINNON: C. Would you have had her home address when she was working for you?

A. It would be at the office somewhere.

C. And that would be available if you were to be asked for it?

A. Yes, there is no doubt of that.

THE COMMISSIONER: What was her first name?

A. Mary, my lord.

C. How do you spell that? Is it L-o-u-c-r-e-n.

A. L-o-u-c-r-e-n.

C. Thank you.

of the mortgage was registered on December 9th, 1958.

A. Yes.

C. Was it shortly thereafter that threatening him?

A. It was at the time or very shortly before the time that I went to see Deputy

Q. I understand that was in December, 1959, a year later.

A. Yes - well, there would be some period of time before my actually going to see the Deputy Commissioner that I would be told that Gardner was.

Q. Did you in any way connect this mortgage or its discharge with the subsequent threats being made by Curly Gardner?

A. No. As a matter of fact, as far as this mortgage is concerned, it is only with a great deal of difficulty that I sort of even recall the fact that there was a mortgage and the details of it, and for some reason or another it just did not seem that important to me.

Q. Apparently your clients must have considered it of some significance or they wouldn't have had you do it?

A. Obviously they did.

Q. Now, the next matter that was dealt with by Mr. Wilson was the Frontier Veterans Club?

A. Yes.

Q. Were you a member of that club?

A. Where was that club?

Q. The Frontier Veterans Club, Fort Erie, Bertie Township.

A. No.

Q. Were you a member of it?

A. No.

Q. Did you ever attend it?

A. Yes.

Q. When it was operating, I mean?

A. No.

Q. When would your attendances be - in the daytime?

A. No, I attended there, I think, on two, possibly three, occasions. It was reported that the police were using abusive tactics and so on and so forth.

Q. This is when McDermott was giving you instructions initially?

A. Yes.

Q. He was the man who got you interested and retained you to act on behalf of this club?

A. That is correct.

THE COMMISSIONER: Let us hear what his evidence is.

MR. MacKINNON: I just wanted to summarize it so that we wouldn't have it repeated.

THE COMMISSIONER: Yes.

MR. MacKINNON: Now, Mr. Jolley has told us here that he arranged on behalf of Mr. McDermott for an appointment with the Police Chief. Did you not have knowledge of that appointment?

A. He arranged . . . ?

Q. Police Chief Johnson, I believe

his name was, of Bertie Township?

A. Yes.

Q. Were you aware that Mr. Jolley had arranged for an appointment?

A. For me?

Q. For Mr. McDermott or whomever he sent?

A. No.

Q. With the Police Chief?

A. No.

Q. You knew nothing about that until recently?

A. I still don't know. I take your AA/3 word for it that he said that.

Q. And do you know whether McDermott actually saw Johnson at any time?

A. No.

Q. He was not with you when you saw him?

A. I was asked about this the last day, but to the best of my recollection he wasn't.

Q. And this was a club which was attended, I believe you said, by Americans primarily?

A. Yes.

Q. Is that correct?

A. Yes, I was told that.

Q. So I take it that you had no doubt in your mind that it was a gaming

establishment?

A. I felt that probably, in view of the attention that it had received from the police, it was, and the fact that McDermott was interested in it would bolster my opinion that it most probably was.

Q. And the fact that its membership seemed to be restricted to Americans?

A. Yes.

Q. Who would do their complaining on the other side of the line?

A. Yes, it would be that, too.

Q. And that being so, I am wondering why you stated in your evidence that the reason you were objecting to the police raiding these premises - and this is at page 3556 - was that they were without any hope of securing evidence from which they might base a court case.

A. Yes.

Q. Why did you feel they had no hope of securing evidence?

A. Well, the manner in which the raids were described to me was such as to give one the opinion that they were not conducted with a view to surprising the people or anything like that.

Q. Why do you say that?

A. Well, they would come in in a leisurely manner and the pattern of their raids

was much the same on each occasion, the way they would come in and people would be lined up against the wall and they would ask them their names and addresses and so on and so forth, and it was just - it just seemed reasonable that they were not conducting these raids for the purpose of trying to catch the club in any illegal activity or anything of that sort.

THE COMMISSIONER: Why were they conducted?

A. Because the club had been convicted, as it were, in the police station, and being unable to prove any illegality in court, they had taken the course of continuing to raid them until they went out of business.

MR. MacKINNON: Q. And how do you know that they couldn't find evidence and prove it in court? Were you told that McDermott and the operators of this club had fore-knowledge of the raids?

A. No, I had no knowledge of that at all. It seemed to me that if they raided it once or twice a night for a period of some months, they would not be raiding it with a view to getting some evidence.

Q. But you were making these representations, as I understand it, at the beginning of February?

A. Yes.

Q. And the raids had only started

shortly before this. You were making these representations to the Police Commission, I believe, on February 13th, if my memory serves me correctly, and Bertie Township Police Force hadn't come into existence until the beginning of January, 1958?

A. That may be, but as I recall, I was shown a calendar, similar to the one on the wall, which denoted all the raids, and that was my complaint before the Police Commission, and I think at that time the Police Commission had a record of the number of raids, and that was the basis for me complaining to the Police Commission.

Q. And you assumed at that time that they just would not be able to get evidence, and hadn't been able to in that short time, and that therefore they could only be doing it for harassing purposes, that they were not really trying to ---

A. That was my objection to the Police Commission to the raids and harasses and to the abuse of the process of law, that is right.

Q. And you stated that after you had attended before the Police Commission you were told later that the police were going to continue their raiding?

A. That is right.

Q. Can you tell me who told you that?

shortly before this. You were making these representations to the Police Commission, I believe, on February 11th, if my memory serves me correctly, and Bertie Township Police Force hadn't come into existence until the beginning

A. That may be, but as a result, I was shown a calendar, similar to the one on the wall, which denoted all the raids, and that was my complaint before the Police Commission, and I think at that time the Police Commission had a record of the number of raids, and that was the basis for me complaining to the Police Commission.

Q. And you assumed at that time that they just would not be able to get evidence, and hadn't been able to in that short time, and that therefore they could only be doing it for harassing purposes, that they were not really trying to ---

A. That was my objection to the Police Commission to the raids and harassment and to the abuse of the process of law, that is right.

Q. And you stated that after you had attended before the Police Commission you were told later that the police were going to continue their raiding?

A. That is right.

Q. Can you tell me who told you that?

A. I believe it was Magistrate Johnson.

Q. Johnson Roberts?

A. Johnson Roberts.

Q. Are you sure? Was it someone from the Attorney-General's Department?

A. It might have been.

Q. Did you speak to someone in the Attorney-General's Department about this club?

A. Yes.

Q. Did you speak to them more than once?

A. I may have. My recollection is that that is probably true, that I did.

Q. Did you take the trouble to go up to see them to speak to them about it?

A. I think I did.

Q. Why were you so concerned about this club? Was this part of your solicitor's duties?

A. I wasn't really concerned about the club at all as to whether or not it was in existence or not in existence, but I was concerned about what I still considered to be a grave abuse of the process of law, and I was quite exercised about that, and my clients, of course, probably had other concerns about this that made it an important matter for them, and it just seemed important to me for that reason.

Q. You were so exercised, indeed, that you wished the police to continue what you have described as an abusive process by doing the same thing to the old Ramsay Club?

A. No, it wasn't that so much; it was to point out the unfairness of a certain police group who, having found this club guilty at the police station, were proceeding to put it out of business.

Q. You wanted the same thing done to the old Ramsay Club? You said they should have been raiding that club?

A. Yes.

Q. And you talked to everybody you could about it?

A. If this is something that the police are going to do, and they are going to do it with the concurrence of the Police Commission and the Attorney-General's Department and the authorities, they should not do it with one but with all of them.

Q. Why didn't you mention a certain other notorious club, namely, the Centre Road Veterans Club? That would have been a good one to start with, wouldn't it?

A. Yes, it would have been.

Q. Why didn't you mention that one?

A. Well, geographically that wasn't anywhere near the same location.

Q. You said that all clubs should be

treated equally. You were doing it geographically, were you?

A. I think, as far as I knew about the activities of the club at Cooksville, that they were receiving all kinds of police attention there.

Q. Were they?

A. I thought they were. I still think that.

Q. In 1958?

A. I don't know as to the exact time.

Q. This is what we are talking about, 1958, when you were making these representations to the Attorney-General's Department and everything else you said about the old Ramsay Club and about the Frontier Veterans Club.

A. Yes.

Q. Did you discuss the Centre Road Veterans Club with anybody in the Attorney-General's office?

A. The Centre Road Veterans Club?

Q. Yes.

A. Yes, I did.

Q. And did you do so at this time, 1958?

A. No.

Q. Prior to this time?

A. No, after a number of people were arrested.

Q. When was this? In what year?

A. They were arrested in September - in September of 1960. McDermott and Feeley and two others were arrested and charged in Cooksville with keeping that club.

Q. And it wasn't until then that you say you spoke to someone in the Attorney-General's Department about this club?

AA/4

A. If I did, I certainly don't recall it.

Q. Now, it was an part of your solicitor's duties, I take it, acting on behalf of the Frontier Club, that you approached the Attorney-General's Department?

A. I suppose that would be a fair way of putting it, yes.

Q. And what was your request that you made at the time of that approach with regard to the Frontier Veterans Club?

A. Well, I think the main point I would try to make would be that I would reiterate ---

Q. Did you?

A. I don't recall.

Q. Don't you recall that you went to see them?

A. Yes.

Q. Why was it?

A. To stop these police from indiscriminate raiding of the club.

Q. And was this before or after you appeared before the Bertie Police - the Bertie Township Police Commission?

A. I would imagine it would be afterwards. I would imagine the first step would be to go to the Police Commission first.

Q. And what was the substance, then, of the conversation?

A. Well, I think the decision was that no action would be taken to instruct the Police Department in the area to do anything other than as they were advised by their own Police Commission.

THE COMMISSIONER: Did you know that they operated a gaming house?

A. No, I just presumed that it would be a gaming house.

Q. In other words, you were reasonably sure it was a gaming house?

A. Yes, I would say that. I would be reasonably sure of that.

Q. Just let us get that firm and fixed. You were reasonably sure it was a gaming house?

A. Yes.

Q. And still you went to the authorities to have them desist from raiding what you were reasonably sure was a gaming house?

A. That is correct.

THE COMMISSIONER: You cannot get it

plainer than that, can you, Mr. MacKinnon?

MR. MacKINNON: No, I do not think we can.

Q. And you were, I believe you told us, paid for these services by McDermott?

A. I believe so.

Q. Once again, you wouldn't have sent him any detailed account?

A. No, there would be no accounts - no.

Q. Now, when you appeared before the Bertie Township Police Commission, didn't you drive over with McDermott?

A. No, I don't think so.

Q. How did you get over there?

A. I presume that I drove over. I don't recall McDermott around that police station at all where the meetings were, although I have a vague recollection of going over with Feeley on one occasion when I was either to go to the Police Commission or to go to complain to the Chief of Police in person.

Q. So Feeley also had an interest in what you were doing at this time?

A. Yes.

THE COMMISSIONER: Just to tidy it all up, McDermott and Feeley were joint operators of this ---

A. McDermott and Feeley, so far as I could make out, were partners in everything I

had to do with.

Q. And what one did he did on behalf of the other - on his own behalf as well as on his partner's behalf?

A. I always understood that.

Q. Yes.

MR. MacKINNON:C.Now, you have stated that you were complaining to anybody who would listen to you, and I am wondering if you can tell us now to whom you complained about the Ramsay Club?

A. I can't recall.

Q. You can't recall?

A. I know I made representations to the Police Commission, to the Chief of Police, and to the Attorney-General's Department. I am almost sure McDermott and/or Feeley went to see another counsel about trying to get an injunction. I just can't recall.

Q. Didn't you phone Donald Scott, the Assistant Crown Attorney?

A. I may have.

Q. Well, he has given evidence. Would you deny it?

A. No, of course not.

Q. What effect did you think, or what influence did you think he would have in this matter?

A. Well, he was a Crown Attorney in that area and he would sort of know what was

going on and perhaps could advise me as to why they were taking what I think was this unreasonable attitude.

THE COMMISSIONER: I can't follow you. You say in one breath that you were reasonably sure it was a gaming house?

A. That is right.

Q. And in the next breath you say that on that footing the police should not be raiding so often?

A. Unless it was a bona fide raid with the hope of getting some evidence rather than a process of raiding to put the club out of existence, having convicted them at the police station. Certainly if they had had any new approach which they were going to take or they were going to make a raid in a different way, I would be the last to complain that they were - that they should be executing a bona fide search of the premises.

Q. I still don't understand why you were complaining about that raiding on what you were reasonably sure was a gaming house.

A. Yes. Undoubtedly, my lord, the police felt ---

Q. No, I am thinking of you.

A. Yes, that is right.

MR. MacKINNON: Q. Did you have any interest in this club apart from your solicitor's

fees?

A. No, sir.

Q. Now, just while we are on that particular club, you did mention that you met Niccoleti once in the United States?

A. I met Niccoleti in the United States?

Q. Yes, that was your evidence.

A. Well, if I said that, I was mistaken. I never met Niccoleti.

THE COMMISSIONER: I do not recall him saying that.

MR. WILSON: I don't, either.

MR. MacKINNON: Mr. Wilson had better wait a moment. I am referring to page 3592:

"THE COMMISSIONER: This man

"Niccoleti would fit into that

"pattern."

THE COMMISSIONER: What volume of evidence is that?

MR. MacKINNON: It is the last volume, Volume 17.

THE COMMISSIONER: Get me Volume 17.

THE REGISTRAR: Yes. (Volume 17 handed to the Commissioner)

MR. MacKINNON: (Reading):

"THE COMMISSIONER: This man

"Niccoleti would fit into that

"pattern.

"A. That may be so, my lord.

"I only met him - I know I have
"met him in person in the United
"States. That man was to do with
"the Fort Erie club."

A. Niccoleti? I have never met Niccoleti in my life.

Q. Did McDermott ever mention him to you?

THE COMMISSIONER: What page was that?

MR. MacKINNON: Page 3592, sir.

THE WITNESS: That must be an inaccuracy in the transcript.

MR. MacKINNON: I am afraid I made a note of it, too. That is why I looked at the transcript.

A. Maybe you are suffering from the same aberration as the Reporter, because I don't recollect saying that, unless I thought it was the name "Borelli", because I am sure ---

AA/5

Q. You didn't meet Borelli in the United States.

A. No.

Q. Why would you say, "I know I met him in person in the United States"? "That was to do with the Fort Erie Club". Who did you meet in the United States in connection with the Fort Erie club?

A. I don't recall saying that at all.

THE COMMISSIONER: It is down here as though he said it. Do you deny it?

A. That I said what?

Q. Do you deny having said that you met Niccoleti in the United States in connection with the Fort Erie club?

A. Yes.

MR. MacKINNON: Q. Did you meet anyone in the United States in connection with the Fort Erie club that you might have had in mind?

A. No, no, just McDermott and Gebirtig, with the possible exception of Borelli.

Q. Yes, but Borelli is not an American resident, is he?

A. No. No,I never met anybody that was from the United States that was in any way interested in the club at Fort Erie.

Q. Did McDermott not mention Niccoleti to you?

A. No.

Q. At no time?

A. No.

Q. Do you know who Niccoleti is?

A. No.

Q. Have you ever heard of him before?

A. I have heard his name mentioned around as a gambler in the United States that was supposed to be connected with some Canadian operations, but that is all.

Q. Where did you hear that?

A. I think in a newspaper.

Q. Do you mean recently?

A. No, I think it was around the time - I think his name is in the brief, if I am not mistaken. The brief was printed in the newspaper at the McDermott-Feeley hearing. I have heard his name around. Now, where I heard it, I don't know. It seems to me it was in the newspaper.

AA/6

Q. Is his name in the brief?

A. Well, I am a little confused with all these Italian names. .

Q. I have no recollection of it in the brief.

MR. MacKINNON: Q. Now, were you also told by Mr. McDermott that he was looking for a new location for this Frontier Club?

A. No, but I knew that McDermott and Borelli were looking at a piece of property in that area there.

Q. Well, that wasn't for any other purpose than another gaming establishment, was it?

A. I didn't discuss that with him. I know there was a property there that was a farm or something of that sort. It was right on the river, but I don't think it was exactly in that area. I think it was ---

Q. It was in another township, was it not -

that

the adjoining township?

A. It was some distance away. I know that the Fort Erie place was right near the racetrack and this other place was on the Niagara River. I know that, so I just presume it would be in an entirely different area, yes.

Q. And you said in your evidence that they told you that they might rear their heads again when the climate was suitable?

A. I don't think they told me that; I think I just assumed that.

Q. This is page 3563:

". . . bearing in mind that I think "these people in Fort Erie always "had told me that they might rear "their heads again if the climate "were suitable."

That is lines 4 to 7. Are you challenging that?

A. No. I wouldn't just be exact that they told me this. This would be something I would glean from the conversation and so forth, but it may be that they told me that.

Q. And didn't they tell you that really what they had their eye on was the Ramsay Club charter?

A. No.

Q. Wasn't that partly their reason for wanting to put it out of business, so that

they could then move in, which they did?

A. I will take your word for it that they did. So far as I was concerned, I always felt that they were opposed to the Ramsay Club because they felt the Ramsay Club was getting special treatment and they were being harassed out of existence. But as far as ever joining up with the Ramsay Club or getting them out of business, it only became apparent that this might be a theory when these cases all started and the bits of evidence fell into place, but it didn't occur to me at that time. In fact, I don't recall even the suggestion that they had joined up with the Ramsay Club until all these cases started.

Q. Now, did you check up on the question as to whether the old Ramsay Club was or was not being raided?

A. No, I was just told this, I think.

Q. You didn't investigate whether this allegation was true or not?

A. I don't think so.

Q. You know we have had evidence from Chief Constable Fay to the effect that in June and July, till the final day of the closing, it was raided fifteen times?

A. That would be very contrary to what McDermott had led me to believe.

Q. But you made no attempt to check

up on your information in this regard?

A. No, no.

Q. But you do swear that he told you that this club was not being raided really at all?

A. Yes, those were my instructions, that this club was not being investigated at all; that nothing was being done about this club. That was my impression.

Q. In regard to any of these people you spoke to, whether the Attorney-General's Department or Assistant Crown Attorney Scott, didn't they tell you that it was not true that this club was not being raided?

A. No, I don't recall them telling me that.

Q. You did tell them, I take it, that the club was not being raided?

A. I presume I would. That was the impression I had, that they were not.

Q. And I take it that during this period of time, which would be May, June and July, you advised us, you talked to anybody who would listen to you? You were discussing not only the question of the Frontier Club and its remaining open but also the closing of the Ramsay Club with McDermott, your client?

A. Yes, that would be true.

Q. And you were meeting him very regularly, I take it, or talking to him?

A. I would see him quite often or be speaking to him quite often.

Q. You were doing a number of other things for him at that time; you prepared the mortgage in May?

A. Yes.

Q. This is the Gardner mortgage?

A. Yes.

Q. You had taken title to an aircraft that summer?

A. Yes.

Q. Did you incorporate Airgo at this time for these gentlemen, McDermott and Peeley?

A. No, Airgo was incorporated by some lawyers who owned it before McDermott did.

Q. Didn't you take over that summer of 1958?

A. That may be, but I didn't conduct the transaction to any extent.

Q. No, but you were involved in it?

A. Yes.

Q. And that would be another reason for them seeing you and be discussing business matters with you?

A. Yes, and flying.

Q. And flying?

A. Yes. I think they were taking flying lessons at this time, and we were

discussing flying quite often.

THE COMMISSIONER: Were both McDermott and Feeley taking flying lessons?

A. Yes.

Q. Both of them?

A. Yes.

MR. MacKINNON: Q. And you were taking flying lessons with them?

A. No, I think I had completed my lessons, and I think I had been licensed about the timethey were commencing. That is my recollection.

Q. Why did you mention flying lessons? Were you meeting them in connection with flying?

A. I was very, very interested in flying at around that time, and I would be flying and going down to the Island and so on and so forth, and I was licensed to fly, and on days I was going to fly and they were not taking lessons, we would go flying, and there was a lot to do about flying.

Q. Would this be in May, June and July - in that period of the year?

A. I can't recall the time. I know it took them some considerable time to qualify for their licence.

Q. And in the winter of that year, 1953 - in other words, in February or March - I take it you went on a vacation with Feeley and/or McDermott?

A. These really weren't vacations; they were to investigate property and legalized gambling and to enjoy yourself while youwere there too. Both.

Q. Well, whatever you describe it as, witness, you did take a trip with these gentlemen in the winter of 1958? I want to localize it to 1958.

A. 1958?

Q. Yes.

A. I can only presume that that is right. That seems about the right time.

Q. Do you say these trips were only for a week?

A. That is my recollection. I don't recall being away longer than a week.

Q. You were never away as long as a month?

A. Oh, no.

Q. Not even in 1959?

A. Not even ever have I been away as long as a month.

Q. So, having this close relationship between yourself and McDermott and Feeley, we come down to this Ramsay brief, which was in preparation some time in May, June and July of 1958?

A. Yes.

Q. Do you still assert that at no time did Feeley and/or McDermott raise this

question of the brief and its preparation with you?

A. No, I recall no such discussions.

Q. And you were the lawyer, presumably, that they were dealing with during all this period?

A. Mr. MacKinnon, they had at least fifteen ---

Q. During all this period you were the lawyer they were dealing with primarily, and by "all this period" I mean 1953 - April, May, June, July and August?

A. I would say 'no'.

THE COMMISSIONER: You would say 'no' what?

A. No, I was not the lawyer they were primarily dealing with.

MR. MacKINNON: Q. Who were they primarily dealing with? You seem to have been kept be very busy by them.

A. Yes, there were a number of other incidents, but there were a number of other lawyers.

THE COMMISSIONER: Who were they?

A. Mr. Herman of Herman, Moses and Rose.

Q. Yes.

A. I understood Mr. Gogek. He had a number of property deals with them. I don't know whether they would be in the mining business

at this stage or not. If they were in the mining business, they would be doing business with Mr. Nasso.

MR. MacKINNON: Q. Frankie Nasso?

A. Yes, and other legal firms.

Q. That came a little later, the mining.

A. Did it?

Q. I am restricting myself to the spring and summer of 1956.

THE COMMISSIONER: There was no other lawyer acting for them in connection with their interest in the gaming house, however?

A. I thought that Herman, Moses and Rose were doing some work in connection with complaining about some things or other with the Cookeville Club.

MR. MacKINNON: Q. This is in 1956?

A. My impression was that it was almost constant for years, but I may be mistaken about that.

Q. I am talking about 1956?

A. This would probably include 1956.

Q. They were complaining to whom?

A. I don't know. As I say, I had no dealings as such with the club in Cookeville in the sense that I would be acting on behalf of the club, but it seems to me that over a period of time McDermott would be fighting continual battles, as it were, & with fire marshals and

the police and so forth and so on. This was constantly being dealt with by a number of different people, including, as I thought, their solicitor, Mr. Herman of Herman, Moses and Rose.

Q. Let us cut it down, if I may, to the Frontier Club and the old Ramsay Club.

A. Yes.

Q. Was there any other lawyer acting for Feeley and McDermott in connection with their interests at this time in keeping the Frontier Club going and their interest at this time in closing the old Ramsay Club?

A. No, none that I can ---

Q. You were that lawyer?

A. The only lawyer that I know of.

Q. Yes, and you are aware, of course, that this brief was used and was for the purpose of seeing that the old Ramsay Club was closed?

A. That is correct.

Q. Now, I believe you stated ---

THE COMMISSIONER: Just a moment. It strikes me as exceedingly strange. You were the only lawyer representing McDermott and Feeley in connection with the Frontier Club, and if the brief was prepared for the purpose of closing down the old Ramsay Club, would it not be mentioned to you? Did neither of them ever say anything to you about it?

A. No, that is right, about anything in connection with the preparation of any brief. I recall no such discussion.

Q. Or any written memorandum to be prepared or to be sent to anyone?

A. That is right.

Q. I don't call it a brief necessarily.

A. Or that any type of memorandum would be prepared and given to any law enforcement agencies ---

Q. Or given to anybody?

A. Or given to anybody.

MR. MacKINNON: Q. Yet you also said to us under oath that you were seeing these gentlemen almost daily, I take it?

A. Well ---

Q. Well, in conversation with them?

A. I wouldn't say daily, but it would be intermittent contacts, that is right.

Q. Now, I must say I can't really understand why you were so concerned about the old Ramsay Club continuing in operation, as a lawyer. As a solicitor, what would be your concern in putting this other club out of business?

A. I personally wasn't concerned at all, except insofar as one ---

Q. Did you receive instructions to put them out of business?

A. No, I received no instructions

AA/6

to put them out of business.

Q. Well, what was your concern?

A. Well, nothing more than that I was reflecting the feelings of my clients, who were very, as I recall, very annoyed about the thing, and it seemed odd that we would have a patched quilt of law enforcement, in that in one area a suspected gambling club would be treated in the harshest of terms and in another area nothing would be done at all, and this seemed odd to them, and it seemed odd to me. That is the only way I can explain it.

Q. You seemed to indicate in your evidence originally that you were upset by this?

A. Yes - not really emotionally disturbed about it, but it did seem to me unfair that one club that was suspected of gambling - now, I don't know whether the people in that area suspected it as much as Feeley and McDermott, but it was represented to me that this was a club suspected and nothing was done about it, and this was only, from a geographical point of view, a very short distance away from the club in which they were interested that was being continually raided by the police.

Q. Do you tell us, then, that in making these objections and complaining to anybody that would listen to you that you felt

you were carrying out your duties as a solicitor to his client? Is this part of your soliditor-client relationship that you were carrying forward?

A. Well, I was interested in the way a situation such as this could develop.

(Page 3800 follows)

B/FTP/1

Q. Will you answer my question?

A. Other than my interest as a solicitor, I was also curious about the situation, particularly when it was represented to me that this club at Fort Erie was really a very inoffensive, nice club, and everything was just lovely, whereas these people at Niagara Falls were very bad people, which is the way it was represented to me, and it just seemed odd to me that if these people were altogether that bad, that something was not done about it.

Q. Let us have this out. Then was it suggested to you that the reason the old Ramsay Club was not being raided was because somebody was being paid off?

A. I think that was suggested to me, yes.

Q. And who suggested it to you?

A. I can only imagine it would be McDermott.

Q. But this is just imagination, I mean, you have no recollection about it?

A. I have no recollection of him saying to me they are being paid off, but I do recall that allegation being made, yes.

Q. You have said you thought it was strange?

A. I thought the whole thing was strange, if these people were as bad ---

Q. I think it strange too, possibly

for different reasons. You were then taken by Mr. Wilson to the Centre Road Vets Club, and you were telling us what an able man Mr. McDermott was at running a gaming establishment. At page 3569, at the bottom of the page, you have just said it was notorious by reputation, and I have already read it to you this morning.

A. Yes.

Q. Then you go on at line 27:

"The police had tried for years, literally "years, to put this place out of business, "and in order to stay in business one "has to have some idea of the rules of "the game . . . "

A. That is right.

THE COMMISSIONER: Where is that?

MR. MacKINNON: At page 3569, bottom of the page, top of page 3570.

Q. Now, I wonder if you could tell me what the rules of the game are?

A. Well, one would be to have an idea of the manner in which the police would work in order to try and stop the place. One would be to have some idea of the evidence that would be necessary to convict the place. One would be to have an idea of what steps should be taken to prevent evidence being gathered, and so forth and so on.

Q. Would it include corrupting police officers so that one would have advance

knowledge of these raids?

A. Well, I would have thought so, although I heard Sergeant Anderson testify that that would not make any difference, from his knowledge.

Q. I did not hear Sergeant Anderson testify to that.

A. This was not here. It was at another trial. I would have thought that would have been an asset.

Q. Any other assets that you can think of that would form part of the rules of the game?

A. Well, I suppose one would want the place constructed in such a way as the police would not get ready admission. In that regard I recall some conversation about the Fire Marshal's office wanting them to do certain things, and they made certain representations and had to do something about certain doors and so forth.

Then it always struck me as very unique that the dogs were on the premises, had been for years, police dogs, and that type of thing.

Q. Would having important people as members be part of that as well?

A. Well, that might be, if an aura of genteelness surrounded the club, they might think that the police would be less inclined

to take action against it, that might be, although I would have thought this would be more of a financial reason.

Q. You mentioned, I believe, in answer to a question of the Commissioner's, that you had acted for Feeley and McDermott in a number of cases, both bookmaking and gaming house cases, is that correct?

A. Yes.

Q. Can you tell us what the bookmaking cases were?

A. Yes, there were, I believe, three cases in New Toronto involving three different occasions. One was the Tisdale Club. There were three cases. The last one was a plea of "Guilty" and there were two cases before that. One was a plea of "Not guilty", both were pleas of "Not guilty", and on one, the first, they were acquitted and on the second they were convicted. As I recall, all three prosecutions involved some premises in New Toronto.

Q. This was a premises in which McDermott and Feeley had some interest?

A. Yes.

Q. Do you know the address of that?

A. I think it is one street over from the Court House. The Court House is on 5th. That would be 6th Street near the Lake Shore Road.

Q. Do you remember who the accused

were?

A. Yes, Courrier and Pleschuk.

Q. That is the same Pleschuk as we have heard about earlier, John Pleschuck?

A. Yes.

Q. Joseph, I believe it was?

A. I always thought it was John Pleschuk.

Q. You could be right.

A. And Kenneth Courrier.

Q. Any other bookmaking establishments that you defended on McDermott's instructions?

A. Yes.

Q. Can you give us those?

THE COMMISSIONER: Do I understand there were three different ---

A. Three different cases.

Q. With respect to the 6th Street address?

A. Yes, my lord.

Q. What are the others?

A. The Jordan Club on Eglinton Avenue.

MR. MacKINNON: I am sorry, but what was the name of the club?

A. Jordan.

HIS LORDSHIP: On Eglinton?

A. Eglinton Avenue, yes.

MR. MacKINNON: It has got a head office somewhere else, has it not, the Jordan Club?

A. Yes, I think the Jordan Chess and Bridge Club, I believe it is called.

THE COMMISSIONER: Where was this Jordan Club on Eglinton Avenue?

A. It was right next to the theatre that is on Eglinton Avenue which is near Avenue Road, and it is on the southwest corner about one block ---

Q. One block west of Avenue Road?

A. There is a theatre on the south side, quite a well known theatre and shopping centre. In fact, I had thought this place had gone out of business years ago, but I was in that area at a banquet in the basement of those premises a few months ago and I see the sign is still there.

Q. All right, anybody else?

MR. MacKINNON: Q. Is it 881 Eglinton Avenue West?

A. I wouldn't recall that. About as far as I know, on the south side it is a big theatre, and I know that there is a chiropractor, Dr. Grizzle, I recall that, and his sign was there and his sign is still there, and the Jordan Club sign is still there.

THE COMMISSIONER: How many cases did you have with respect to that club?

A. One, my lord.

MR. MacKINNON: Q. What other bookmaking establishments did you have?

A. Then there was the downtown Jordan Club. I am almost positive that McDermott

spoke to me about that, about taking the defence, but I knew the steward whose name was Dann, and it might be that Dann spoke to me about that himself.

THE COMMISSIONER: All these places were places where McDermott and Feeley had an interest, is that what you are telling us?

A. Yes, they had some interest.

Q. All right, any others?

A. No, I cannot recall any others.

MR. MacKINNON: Q. Did you ever act on behalf of the Bellevue Club?

A. The Bellevue Club?

Q. Yes.

A. No, I don't think so.

Q. Didn't you go down to see Mr. Donald Gordon of the C.N.R.?

A. Yes.

Q. And what was that in connection with?

A. The Jordan Club.

Q. It was the Jordan Club?

A. Yes.

Q. It wasn't the Bellevue?

A. No.

Q. And who retained you for that trip?

A. McDermott.

Q. And what was the purpose of it?

A. Well, there was a ----

Q. First of all, did McDermott go down with you?

A. I think he did. There was another counsel that was going to make representations, and I was to be with that counsel, and I recall McDermott being there.

Q. Who else was there?

A. I think my partner was there but on another matter. He just happened to be there. This was in Montreal.

Q. Yes?

A. And representations were made.

Q. So there was you, Mr. Locke, McDermott and who else?

A. The other counsel.

Q. What other counsel?

A. Mr. Maloney.

Q. Mr. Arthur Maloney?

A. Yes.

Q. So how did you get down, fly down or drive down?

A. Flew down.

Q. And you were making representations to Mr. Donald Gordon in what connection?

A. Well, there was in this Jordan Club -- I don't know about uptown but in the downtown Jordan Club, a service that is similar to the stockbroker's office.

Q. Ticker?

A. Tickertape, and this tickertape was in this club and it was supplied by Canadian National Railways, and it gave all sporting

results except horses.

Q. Except horses?

A. Yes, they did not give horses. Then there was apparently a ruling made in Toronto that as the result of representations made by the police, that they were to remove this service from all clubs. Apparently there were a number of different clubs in Toronto that had them and they were only to be allowed to stay in news service, that type of thing. BB/2 Representations were made that he should not take this service out and this was a public utility, and unless it was shown that it was abused, it should be made available to members of the public.

Q. The police wanted to take it out because they felt it was part of the ---

A. It would be of assistance to bookmaking.

Q. Illegal activities?

A. Yes.

Q. That were going on in the club?

A. Be of assistance for bookmaking.

Q. It was only on behalf of the Jordan Club that you attended?

A. Yes.

Q. On Mr. Gordon, no other club?

A. No, sir.

THE COMMISSIONER: How did Mr. Art Maloney get into that one?

A. I don't know, my lord.

MR. MacKINNON: Did you retain him?

A. I may have.

Q. When was this?

THE COMMISSIONER: Just a moment. Did you?

A. I don't recall, my lord. Mr. Maloney had acted in other cases in which McDermott was interested, and Mr. McDermott knew Mr. Maloney and my best guess would be that he would contact Mr. Maloney direct. I believe there is a possibility that he would say to me, "Why don't you get Art Maloney to act on this?", and I would phone Art Maloney.

MR. MacKINNON: Q. When was this trip?

A. I don't recall.

Q. Was it 1958 as well, 1959?

A. May have been anywhere in around there. I don't recall.

Q. Did Mr. Gordon accede to your request?

A. No.

Q. Did he advise you that he had been informed that this was an illegal gaming establishment?

A. No.

Q. Now, was there any other club or organization or bookmaker that you acted for on the instructions of Feeley and/or McDermott?

A. None that I recall at this time.

THE COMMISSIONER: What were the other cases that Mr. Arthur Maloney was acting for,

do you know?

A. Well, he acted in the Peterborough case.

MR. MacKINNON: Q. He only acted to go up and plead guilty, is that right?

A. Yes, and I don't think McDermott retained him. I think it was Horton that retained him. Then he acted in two cases in New Toronto, two betting house cases, the first two. The last case was a plea of "Guilty", and in the first two cases he acted. One of them was against, the one we referred to this morning against Pleschuk, and the second one was, I think, Pleschuk and Courrier.

THE COMMISSIONER:

Q. Any others?

A. I don't recall any others, my lord.

MR. MacKINNON: Q. Once again, trying to keep in sequence with the examination-in-chief, you stated that McDermott had told you that to use Section 168 of the Criminal Code would put a lot of these clubs out of business?

A. Yes, I am quite sure he mentioned that.

Q. Police Constable Scott has sworn that McDermott told him the same thing. Now, you also stated that undoubtedly you discussed these particular sections, being Sections 168 and Section 174, and both Sections are named in this brief, with McDermott, but you did not say when you had discussed it. Could it have been the spring and summer of 1958?

A. Might have been.

Q. Did you ever give him any written summary of the law on any particular matter for him to digest?

A. If I did I don't recall it, because he was, as I say, continually discussing points of law and court cases, oftentimes court cases in which he had no interest whatever, and he was just very interested in these matters.

Q. But you cannot remember ever giving him either by letter or any other document form, a written memo on the law with regard to any particular matter?

A. No, I cannot specifically recall that, although I know on a number of occasions a point would come up and we would sort of argue it out, and I could very well make some notes of some sections or some cases. He had law books at home and he would discuss it with me in that light, and discuss law, as it were, and this oftentimes happened.

THE COMMISSIONER: Have you been in his home?

A. Yes, my lord.

Q. Frequently?

A. No, I would say a dozen times, possibly more.

Q. Did he have a typewriter there?

A. I don't recall whether he did or didn't.

Q. I mean, he had law books?

A. Yes, he had law books. I don't recall seeing a typewriter there, although there might have been one.

MR. MacKINNON: Then in connection with this brief and what it contained, you then later told us in connection with the old Ramsay Club that if the club went out of business by being raided by the Ontario Provincial Police, that this club could go back into business if there were an intention or source of information so that the O.P.P. would be stalemated in their efforts to close that club.

"If it was McDermott who could supply
"that information, then I would say
"that he would be a welcome partner
"in that organization. That is what
"I make out of what I have heard."

Now, can you elaborate on that a little more?

A. Yes, if it were true that this club that was operating in Niagara Falls was not being molested in any way by the local police officers ---

THE COMMISSIONER: That is the old Ramsay Club?

A. The Ramsay Club, whatever it is. If the local police, whether it is true or not, that they were purposely not doing anything about it, would do nothing to close this club, and if the Ontario Provincial Police took an interest in this club with a view to their

closing it, and if McDermott were able to -- this is all the theory of the Crown in the first case -- if McDermott then had somebody on the Ontario Provincial Police who could advise him as to when this club would be raided, overlooking Sergeant Anderson's statement that it did not seem to make any difference, then Mr. McDermott would have a commodity that the people in Niagara Falls would be interested in.

So, if they were put out of business by the Ontario Provincial Police and would be subjected to raids by the Ontario Provincial Police, if McDermott were able to tell them that "I can assist you with the Ontario Provincial Police and let you know when they are going to raid", I would say that provided they did not think he was the person that drew up the brief, they would let him in the partnership if it was an illegal gaming house.

MR. MacKINNON: Q. And by what you heard, do you mean that you heard this from McDermott, Feeley?

A. No, this is things I gleaned from the court trial of Wright, Feeley and McDermott.

Q. I see, that is what you mean by "what I have heard"?

A. Yes.

Q. Now, weren't you still acting for Feeley and McDermott in 1959?

A. I would imagine if there was something

that required our services we would be acting.

Q. You were not dealing with them with regard toKrno Mines, for example, in 1959?

A. 1959?

Q. Yes.

A. If that is the date, yes.

Q. We have been advised that this Ramsay Club re-opened under new management in the fall of 1959. You say that you know nothing about McDermott's interest in the re-opening, or Feeley's?

A. No.

Q. Never discussed it with him?

A. In fact, I never heard a suggestion that they had become in any way interested in that club that I can recall, until after these court cases started.

Q. Well, weren't you ever in Niagara Falls around that time collecting money in an election campaign?

A. I have never collected money in an election campaign.

Q. You have never acted as an agent or collected money to finance a political campaign?

A. No.

Q. For any one?

A. Unless it was in my own riding in Toronto.

Q. You didn't do any collecting in Niagara Falls for your own riding in Toronto?

A. No.

Q. You have collected in your riding in Toronto?

A. No, only in the sense that I would have the neighbours in and have the candidate that I was rooting for come and have him address the neighbours.

Q. Did you ever receive any contribution from Feeley or McDermott for the campaign?

A. No.

THE COMMISSIONER: Are you sure of that?

A. As sure as I am standing here, my lord.

MR. MacKINNON: Q. Now, you stated -- what is your riding in Toronto?

A. York West. Used to be York-Humber.

Q. You stated that Stringer's explanations as to how he received the brief sounded odd to you. I think those were your words. I must say I am inclined to agree with you, but did you receive any explanation from any one else as to how that brief got into Stringer's hands, as to why he was so urgent to act on it?

BB/3

A. No.

Q. You have had no explanation from anyone?

A. No.

Q. As to how Stringer received this brief?

A. That is the explanation from what --

certainly not from Stringer. McDermott and Peeley, as I say, took the attitude they just didn't know anything about it.

THE COMMISSIONER: Did they take that attitude with you?

A. Yes, they did not know anything about it at all, the brief. People may have offered explanations, but not in a factual basis. Nobody has said to me, "Well, I know what happened and here is what happened, or here is why this was said".

MR. MacKINNON: Q. Well, did you ever discuss this brief with the late James Maloney?

A. It is remotely possible but I would doubt it very much.

Q. Why would you be discussing it with him?

A. Well, I don't really know, except if it were at the time McDermott and Peeley were in the mining business, I had been in Mr. Maloney's office with them, I think, on a couple of occasions.

Q. Did you know Mr. Maloney quite well?

A. No, not well.

Q. Had you ever gone on any trips with him?

A. No.

Q. Were you introduced to him by Peeley or McDermott?

A. No, I was introduced to him by his

brother.

Q. Did you ever meet him with Peeley and McDermott prior to this mining venture that you mentioned?

A. Well, I am very sketchy on all these dates, I don't think so. I recall having dinner at the Royal York Hotel on one evening.

Q. With whom?

A. With McDermott and Peeley and Mr. Maloney and myself, and I think it was about that time that we had been in his offices, when McDermott and Peeley were, as I recall the conversation, anxious to see about getting a road put into this property that they were so strong about at that time.

Q. Well, we will come to that a little later, but did you introduce them to Mr. Maloney or they knew him before you ---

A. As far as I know, I think so.

Q. --- met them with him?

THE COMMISSIONER: What is that?

A. I am not conscious at all of introducing Mr. Maloney to McDermott and Peeley.

Q. Just a moment. Which Maloney are you talking about?

A. James Maloney.

Q. Do you know who did introduce Peeley to James Maloney?

A. No, my lord, I don't.

MR. MacKINNON: Q. Did McDermott and Peeley

seem to have known him for some time?

THE COMMISSIONER: When?

MR. MacKINNON: Q. When you first met Mr. Maloney with Peeley and McDermott?

A. It occurred to me that they knew him. I felt that they knew him and how long they had known him I had no idea.

Q. Did they call him by his first name, for example?

A. No, I don't think they did. They called him "Mr. Maloney".

Q. And you said that you never went on any trips, hunting or fishing or otherwise, with James Maloney at any time?

A. No, that is right.

Q. Incidentally, was Mr. Maloney in this room which was rented in your name in the King Edward Hotel when you were present -- the Royal York?

A. The Royal York. The room, as I understood it, was there for the better part of a week, and I was there only a very short time. I did not see him there, I did not see him.

Q. How would you get discussing this particular brief with Mr. Maloney in the fall of presumably 1959?

A. Well, I don't know that I ever discussed it with him, but it may well be that sometimes I would meet him and maybe McDermott and Peeley's names would come up,

and maybe if they come up it would come up this thing about the brief, if that is after the date that the brief became common knowledge.

Q. Now, you acted on the Finnish trial.

THE COMMISSIONER: In other words, you are speaking of James?

A. Yes, my lord, speaking of James all through this.

(Page 3830 follows)

CC/1/FL

MR. MacKINNON: Q. This was long after you had started your mining venture, then?

A. I presume so, yes.

Q. Now, you acted on theFinnish Club trial where Magistrate Thompson was the presiding magistrate. Is that right?

A. Yes, that is right.

THE COMMISSIONER: Q. Just a moment.

A. I think he presided over two --

Q. Just a moment.

A. I am sorry.

THE COMMISSIONER: Now, have you finished the subject of the brief?

MR. MacKINNON: I cannot say I have completely, but did you wish to --

THE COMMISSIONER: No, no. I may or I may not.

MR. MacKINNON: Q. I was going to ask you, witness, if you would search your memory and just ascertain what discussion, if any , there was about this brief with Mr. James Maloney?

A. As I say, I don't recall any discussion, but it may well be that I have discussed it with him.

Q. Well, did Peeley or McDermott ever mention to you Mr. Maloney in connection with this brief?

A. Never.

Q. You acted on both the Finnish Club trials, did you?

A. Yes.

Q. That were tried by Magistrate Thompson?

A. That is right.

Q. And were you advised by that magistrate that there had been an attempt to --

THE COMMISSIONER: Well, just a moment, now. The magistrate will be called as a witness.

MR. MacKINNON: Yes. I wanted to ask this man what he knows about this.

Q. Were you advised that there had been an attempt to influence the magistrate in his conduct of the trial?

THE COMMISSIONER: Advised bywhom?

MR. MacKINNON: Q. By anyone?

A. Yes.

Q. Were you advised of this by Feeley or McDermott?

A. No.

THE COMMISSIONER: And by whom?

MR. MacKINNON: Q. By whom were you so advised?

A. I believe the Crown Attorney some date considerably after the trial. I know I didn't hear about it for a considerable time after the trial and I know that Art Maloney didn't hear about it for months and months later.

But, I do know that the magistrate in question has spoken to police officers and to Crown Attorneys and had advised them at the time, because I know that if either one of us were aware of any attempt being made to influence the magistrate at the time some motion would have been made to declare himself functus officio, or something of that sort.

Q. When was this particular hearing?

A. No, it must have been the second hearing because on the first hearing, when there was no suggestion of any influence that I know of, the accused were acquitted; and on the second hearing, when there was this suggestion of influence, the accused were convicted.

Q. Suggestion of attempted influence?

A. Yes.

Q. Did you ever discuss this particular matter with Feeley and McDermott? And James Maloney?

A. I discussed it with James Maloney and I have discussed it with McDermott and I have discussed it with Feeley.

Q. And did they all deny any knowledge of it?

A. McDermott and Feeley denied any knowledge of it, and that was more or less the end of the conversation; and Mr. Maloney and I had a somewhat further discussion about it.

THE COMMISSIONER: Yes?

A. Well, discussing -- The effect of it was that he knew nothing about it and, then, it went on to why such a suggestion might be made, and so forth.

Q. What do you mean by "such a suggestion"?

A. Well, first of all, he denied to me --

Q. Just a moment. I want to get this. First, you discussed it with McDermott and Feeley, and what?

A. They didn't know anything about it.

Q. Just a moment.

A. As far as they were concerned --

Q. Just a moment. Then, you say you later discussed it with Jim Maloney?

A. Yes, my lord.

Q. What did he say?

A. That he made no such call.

Q. You went on to say -- ?

A. Well, at that time we discussed a number of things, Mr. Maloney -- James Maloney and I, concerning the situation, as I recall, of Mr. Wintermeyer's speech. Possibly it was at that time; possibly not. McDermott and Feeley might be arrested. The thing was coming to a boil, as it were.

Q. When did you discuss it with James Maloney?

A. I think I only discussed it with him on this one occasion.

Q. Well, when was that?

A. I just don't recall. It was -- It seems to me it was about the time of the preliminary hearing, because I have it in my mind it was sometime around that time but before he released a statement to the press. I have it in my mind it would be between these two dates.

MR. MacKINNON: Q. Why were you discussing this with Mr. Maloney at all? Were you a personal friend of his?

A. Well, it was in Scott's diary that he was supposed to have been involved with this brief, too.

THE COMMISSIONER: The brief? We are not talking about the brief.

A. Well, we just generally discussed all this, and in addition to the brief which we would discuss probably at that time. We discussed this allegation against him which had been made by this magistrate.

MR. MacKINNON: Q. He knew the magistrate?

A. I don't know. He would know of him, of course. How well he knew him or not, I don't know.

Q. I guess we will find that out from the magistrate. Did you have a number of meetings with Mr. Maloney having to do with

the mining venture that Feeley and McDermott were engaged in?

A. I only recall meeting him on three occasions. I would say that there would be -- I recall the dinner meeting at the Royal York Hotel and I recall two meetings in Mr. Maloney's office in the Parliament Buildings that I was present at.

Q. You never met Mr. Maloney outside this City?

A. Yes.

Q. James Maloney?

A. Yes, I have.

Q. Where was that?

THE COMMISSIONER: Just a moment.

Q. You said you recalled meeting him on three occasions; one at the dinner meeting in the Royal York and two meetings in his office?

A. Yes.

Q. With McDermott and Feeley?

A. Yes.

Q. You started to say, when your memory was jogged about it, you met him somewhere outside the City?

A. Yes.

MR. MacKINNON: Q. Where was that?

A. In Ottawa.

Q. Was that a pre-arranged meeting?

A. No, a group of lawyers had come

down from -- It had nothing to do with McDermott or Feeley. I don't recall meeting him outside of Toronto, except one day in the suburbs where I live he came out to give a political speech and I went to hear it.

Q. Well, now, what was your interest in Krno Mines?

A. Well, I had always, for some period of time, been after McDermott and Feeley --

Q. What was your interest in Krno Mines?

THE COMMISSIONER: He was just going to tell you.

A. Well, I was responsible, in a sense, in getting them interested in the mining business. They were introduced to a prospector. The prospector found this property, which was supposed to be very good property.

Q. Was it the Minister who introduced them to the prospector?

A. No, Frank Nasso. It wasn't the first year they found this property that was supposed to be interesting, it was the second year. Then, we got Manley and Grant, the lawyers, a chartered accountant and professional secretary, Mr. Brown. And it was explained, in order to protect their tax position, they should play no part in the management and they would have to remain as prospectors. At that time it was suggested

they have officers other than themselves. And I was president. I think --

MR. MacKINNON: Q. I am sorry. If I can interrupt. There is something about officers other than themselves.

A. Yes. If they were officers and

cc/2 if this mine came in --

Q. "They", is that Feeley and McDermott?

A. Yes. And if this mine came in, as Mr. Grant of Manley and Grant said, if the mine came in it wouldn't be a capital gain if they were officers and management. They were to remain as prospectors, although as prospectors they could be actively interested in the future and welfare of the mine. They were, you might say,the virtual shareholders.

Q. Would it be a question of the Securities Commission not approving of them and that is why their names would not appear? Did that arise?

A. No, I don't recall that.

Q. In any event, you allowed yourself to become president?

A. Yes.

Q. Did you have any financial interest in this?

A. No.

Q. Whom did you say the other officers or directors were?

A. Well, there was Mr. Phillips, chartered accountant.

THE COMMISSIONER: Q. What is his first name?

A. Charles S. Phillips.

MR. MacKINNON: Q. Did he share office space with you?

A. He did. He doesn't any more.

Q. Did he look after your books?

A. Our books?

Q. Yes.

A. Yes.

Q. And who else?

A. There was Monteith. I am always confused about his first name. I refer to his initials of J.C.L., which are not his initials, but just a short form for Johnny-come-lately. I think his name is Art.

Q. Didn't he come later?

A. Yes.

Q. Wasn't it Mr. Burns?

A. Yes. Mr. Burns from Mr. Nasso's office was a director. And Mr. MacNamara.

Q. Is this the Centre Road Veterans MacNamara?

A. Well, it has something to do with the Veterans. I understood he was Canadian director of the Veterans, or something along those lines. I knew McDermott had known him.

Q. What was his first name?

A. I don't know.

Q. Was it Joseph, or J.B. MacNamara? Does that sound familiar?

A. J.B. I don't think it is Joseph.

Q. In any event, he was brought into the picture by McDermott?

A. Yes.

Q. Did he have any financial interest in the mine?

A. I don't think so.

Q. Was he given any shares outside of his one qualifying share?

A. I don't think so.

Q. Now, were not you listed as promoter of this company with the Securities Commission?

A. Not to my knowledge.

Q. Who did the papers?

A. Manley and Grant.

Q. Did you sign anything?

A. I signed a lot of papers.

Q. Do you read what you sign, I take it?

A. No, not always. If a firm such as Manley and Grant was preparing them, I wouldn't check them particularly.

Q. It would surprise you, I take it, if you were shown as the promoter of the company?

A. There would probably be a very good

reason for it, but I don't know the reason.

THE COMMISSIONER: What would be the reason?

A. Well, I guess that one of the directors had to be the promoter.

MR. MacKINNON: Q. Or would it be, again, that Feeley and McDermott could not appear on the surface?

A. That may be but I think it was all cleared with the Securities Commission when they were talking about the escrow shares, and so forth.

Q. I will leave that for the present. You mentioned approaching Assistant Commissioner Kennedy with regard to the postcards your clients were receiving from, you believe, Mr. Gardner?

A. Yes.

Q. Is that correct? Where are these postcards? Did you keep them?

A. Yes, I think I have them.

Q. You have them now?

A. Yes, I think I have.

MR. MacKINNON: I wonder, Mr. Commissioner, if we might have these produced?

THE COMMISSIONER: Yes.

Q. Bring those, please.

A. Yes.

MR. MacKINNON: The next question was: "What did they say?" We will wait until we see them.

THE COMMISSIONER: Q. Did the cards indicate from whom they came?

A. No. I think there was an alias. Yes.

Q. The cards would say where they had been mailed.

A. Yes. As I recall there is a letter in an envelope and a couple of cards. Whatever was given to me I am sure I still have them and I will be able to produce them. Whatever cards I showed to Deputy Commissioner Kennedy are the cards I now have in my possession.

MR. MacKINNON: Q. How did Feeley and McDermott know --

THE COMMISSIONER: Q. Were they addressed to McDermott or Feeley?

A. I don't recall.

Q. Well, we will have them here.

MR. MacKINNON: Q. How did they, and by "they" I mean McDermott and Feeley, or both, know that this correspondence was from Gardner?

A. Apparently this correspondence was accompanied by phone calls.

Q. I see. And he was indicating in his phone calls, I take it, he had something detrimental --

A. Yes.

Q. -- that he could say about Feeley and McDermott?

A. That was my understanding.

Q. Presumably having to do with their gaming activities?

A. I would presume that.

Q. And you approached Assistant Commissioner Kennedy to ask if some trap could be laid for Mr. Gardner. Is that correct?

A. Yes. I wanted to report the situation, too.

Q. You did not suggest to the Commissioner that maybe Gardner could have something he could tell about these people?

A. I don't recall that. It may well have been in my mind. It wasn't in my mind that the things he would say would necessarily be all lies; it may well be he had some actual information which would be detrimental to McDermott and Feeley.

THE COMMISSIONER: Q. It would not necessarily be all lies, what do you mean by that?

A. Well, I don't know. McDermott put it to me, "that Curly Gardner says he is going to make up a lot of lies about us and play ball, and so on, and get us in trouble". And what their exact relationship to the Windsor operation was I don't know. It may be McDermott's connection was such that Gardner might be able to give information to incriminate McDermott.

Q. We have Gardner's evidence. I was

wondering what you meant when you said it would not necessarily be all lies.

A. I was just basing that on --

Q. Where do you put the accent, on the word "necessarily" or the word "all"?

A. This would be based on what little I knew of Mr. Gardner and what McDermott had told me.

MR. MacKINNON: Q. Well, in any event, you entered into a discussion with the Commissioner, and later Assistant Commissioner, as to whether Feeley and McDermott had a patch?

A. That is right.

Q. On the Ontario Provincial Police. Did you report on this interview, I take it, to Feeley and McDermott?

A. Yes, I did.

Q. Did you report on this aspect, of them having a patch?

A. Yes, I did.

Q. What was their reaction?

A. They laughed.

Q. Did they confirm this, that they did?

A. They would hardly do that.

Q. You were their solicitor.

A. Well, --

Q. And confidante, apparently?

A. No, no. As I explained to the

Commissioner; The Commissioner said, "Tell me, Mr. Humphrey, have Feeley and McDermott got a patch on our squad?" And I said, "Well, I don't know." I wouldn't want to know whether they did or they didn't. First of all, they wouldn't tell me and,secondly, I wouldn't want to know and, thirdly, if they started to tell me I would stop them from telling me because this is something I wouldn't want to become involved in or have any knowledge.

Q. You apprently discussed these telephone calls they were making from this number, Crescent 8 number, in Port Credit?

A. Oh, that was at a much later date.

Q. Were you more open later on in discussing what they were doing?

A. No, except that would be something that would be in an entirely different light, I would think. It seems to me that would be -- It seems to me that conversation I had with them when this all started to come to a boil, and it may have been even after Wintermeyer's speech.

THE COMMISSIONER: Q. May I interrupt?

A. Yes, my lord.

Q. Was this correspondence accompanied by telephone calls?

A. Yes, my lord.

Q. Complaints by McDermott and Feeley,

I suppose, by them to you?

A. Yes.

Q. As a result of which you went to Inspector Kennedy?

A. Yes, my lord.

Q. I suppose you have heard of Papalia. What is his first name?

A. John Papalia.

Q. John Papalia. Have you ever heard of Papalia chasing Gardner around the King Edward Hotel in Toronto?

A. Never heard that.

MR. MacKINNON: Q. You have met Papalia, have you?

A. I acted for him once.

Q. Just in that connection: You were asked by Mr. Wilson as to whether you had ever stated to the police officers on one occasion that you wished you had all the bad paper at the Cooksville Club in a year and you would retire, and you said you could very well have made that statement. Did you discuss the question of bad paper at the Cooksville Club with your clients?

A. No, there wouldn't be any discussion about it except from time to time there would be comments about certain people coming out and losing a lot of money and simply not paying.

Q. Were you ever asked to collect these debts?

A. No.

Q. They left that with Papalia?

A. Well, I never heard of Papalia ever being connected with that club.

Q. Who else had an interest in that club?

A. Well, as I say, I can't speak from anything anybody told me that would know, but I presumed the same as Sergeant Anderson, that Midgely and Riggs.

Q. Midgely and Riggs in addition to Feeley and McDermott?

A. It runs in my mind through the years there have been a number of people in and out.

Q. Was Bluestein in on one occasion?

A. I have heard that rumour, that Bluestein was a partner.

Q. He was not in, to your knowledge, after you commenced acting as solicitor for these people?

A. If he was, I didn't have any knowledge of it.

Q. Did you ever meet or know Scrip Mitchell?

A. No, I don't know Scrip Mitchell.

Q. You never met him?

A. Not to my knowledge.

Q. Then, you were asked --

THE COMMISSIONER: Would this be a

convenient time?

MR. MacKINNON: Yes.

---Short recess.

MR. MacKINNON: Q. Mr. Wilson asked you about the search warrant which was executed on your office and on your home. You stated that because Mr. Moore had been in your office you thought immediately of search warrants, and the Commissioner asked you, "What made you think of that?". And, then, you say this, and I would like your clarification, on page 3638, line 17:

"THE COMMISSIONER: Q. What made
"you think that?
"A. Well, because, for one thing,
"what Wright had told me.
"Q. What Wright had told you?
"A. Yes, sir.
"Q. When?
"A. After his arrest?
"Q. What did he tell you?
"A. Well, he told me after his
"arrest that somebody said something
"to Scott. I expressed amazement
"as to why they would want to search
"my offices, and the only reason
"given to me at the office was I
"was Wright's lawyer and that is the
"reason."

What did you mean by that,

"... Well, he told me after

"his arrest that somebody said

"something to Scott."

A. I think there was more to it than that, Mr. MacKinnon, but ---

Q. I am sure there is, but what is it?

A. There was something said about photographs and tape recordings toScott.

THE COMMISSIONER: You had better read him the rest of the answer.

MR. MacKINNON: Q. "I expressed

"amazement as to why they would

"want to search my offices, and

"the only reason given to me at

"the office was I was Wright's

"lawyer, and that is the reason.

"I thought it very odd the search

"warrant was for photographs and

"tape recordings and thattype of

"thing, and that mystified me.

"I asked Wright . . ." -

presumably this was after the search warrant -

". . . Wright said somebody said

"something to Scott or Scott was

"under the impression McDermott

"and Feeley had photographs of all

"those people and officials and

"everybody else, and tape recordings

"of their voices and telephone
"conversations, and they were all
"in my possession."

Was this after the search warrant was executed he told you this?

A. Yes.

Q. Then, that does not really answer the Commissioner's question, does it? He asks you what made you think you were going to have a search warrant executed, and you said it was something Wright told you, and what Wright told you was after the search warrant?

A. Yes, that had nothing to do with it, that is right.

Q. Start over again, then, and tell us what left that suspicion in your mind?

A. I came back to the office late in the afternoon and the secretary told me that a P.C. Moore -- I forget whether she said he was of the O.P.P.

Q. You called him back and he wanted to know how you knew it and he said you said it was very obvious.

A. Yes.

Q. And you put two and two together and thought they were going to execute a search warrant at your office?

A. Yes.

Q. And that is when you said what

Wright told you?

A. Yes. That answer doesn't answer the question. I was distinctly under the impression the only reason he would stay in my office all day and only be known as "Mr. Moore" and not a police constable, and was very evasive when I phoned him as to what he wanted and he was very surprised I knew he was a police officer, and I thought at that time it was he who was there. I thought, "Why? Would that all be a disguise?" And who he was. And the only logical conclusion I could come to was that he wanted to be there without my knowing he was coming and, therefore, he would search the office.

Q. Couldn't he search the office without you being there?

A. I know when they actually executed the search warrant they waited until we came. For some reason they wanted us there.

Q. From your experience as an Assistant Crown Attorney it is not necessary to have the occupant there to have the actual search warrant?

A. No. There are a number of lawyers and a chartered accountant and business man who shared this space and, rather than going indiscriminately through everybody's office they wanted us there.

CC/4

Q. Are you sure nobody told you at

that time your offices were going to be searched?

A. No.

Q. Did you speak to anybody in the Attorney-General's Department?

A. No. I was under the impression not only had they not authorized this but they were very annoyed when they heard about it.

Q. The Attorney-General's Department had not authorized your office to be searched?

A. Yes, and that they were annoyed when they heard about it.

Q. Did you know that authority had been sought through the Attorney-General's Department?

A. I didn't know that until I heard it here, that they had given the authority. Another solicitor said, "I heard your offices were searched?" "Yes" "I understand the Attorney-General's Department," to the effect, "didn't know anything about it and were very upset when they found it had occurred."

Q. You did not hear that directly from anyone in the Attorney-General's Department?

A. I didn't know the Attorney-General's office knew my office was going to be searched until it came out in this.

Q. This gentleman told you?

A. This was after it was executed.

He heard that it had been done and they were upset.

Q. Apparently at the time he was talking to you they had heard and they were upset?

A. Yes.

Q. You did not check that with them?

A. No, that just -- That sounded reasonable to me. I was always under that impression, as I say, until I heard here that, in fact, authority had come from them.

Q. Who was this solicitor who said this to you?

A. Mr. Ed. Horkins.

Q. Ed Horkins?

A. Yes.

Q. You apparently felt -- Or, at least, you stated to the Commissioner here, that if any -thing in the nature -- anything in there of an incriminating nature it would have gone out long before that. In that connection did Feeley and McDermott have a free run of your office to take anything out that they wanted, whether you were there or not?

A. I would say if they wanted something they would come and ask somebody connected with the office and that somebody would give them what they wanted.

Q. Was there a locked cabinet in

your office at that time?

A. I think there was an unlocked cabinet, too. It was there at the time.

Q. Wasn't there a cabinet that would lock?

A. When the police came in?

Q. Yes.

A. I don't think so.

Q. Was the cabinet empty?

A. Yes.

Q. Did it not have papers in prior to the search warrant being executed?

A. I don't think it ever had papers in.

Q. Did you tell the police you had other papers in your garage?

A. I think I did.

THE COMMISSIONER: Q. Did you tell them?

A. Yes.

MR. MacKINNON: Q. They did not prove to be there?

A. No. Some filing cabinets were sent out to my garage. We had a storage problem and filing cabinets were sent to my garage, I thought containing old files, and the police were looking for a certain file and I thought it might be in my garage with these filing cabinets. But, these filing cabinets were in my garage but it turned out

my partner sent out the filing cabinets to my garage but it was only to store the files. I thought I was assisting Inspector Graham in telling him this and Sergeant Anderson went to my garage and it was only empty cabinets.

Q. This empty filing cabinet, was it in your office?

A. Yes.

Q. Had you never used it?

A. Only to put a bottle of whiskey, something along those lines it was really used. There was always things on top of it. It was there, more or less, as a table top.

THE COMMISSIONER: Q. More of a liquor cabinet than a filing cabinet?

A. Yes, my lord.

(Page 3855 follows)

DD/ADO'M/fl

MR. MacKINNON: Q. You mentioned that Constable Wright told you certain things. Were you acting for Constable Wright after the arrest?

A. Yes.

Q. And was it McDermott who retained you to act for him?

A. No.

Q. You had never met Constable Wright before?

A. Never.

Q. Do you know how he came to come to you?

A. No. He was arrested on the week-end, either on the Saturday or Sunday morning, as I recall, and I recall a phone call woke me out of my sleep and somebody said something to the effect that he was Mr. Wright and that there was a fellow in jail, and I said something to the effect I didn't go to jail on week-endsand, "I will see you on Monday". And he said something to the effect that he was a police officer and he was in some trouble.

Q. He didn't use any names as introduction for himself?

A. My recollection is that he said, "Wright".

Q. He didn't say, "I am a friend of Joe McDermott's and would like to see you"?

A. No.

Q. Lawrence and Lasorie also came to see you?

A. Yes, some time later.

Q. Not too long?

A. I have discussed that with them and we have a dispute between ourselves and he thinks it was immediately and my impression is that it was a couple of weeks.

Q. Their resignations came within a couple of days?

A. Yes.

Q. And you already told us you were consulted on that?

A. Yes.

Q. It is pretty clear it was within a couple of days of Wright's arrest?

A. Yes, I think it is quite clear.

Q. And McDermott recommended you to them?

A. No, not to my knowledge.

Q. You don't know how they came to come to you?

A. No, I have no idea.

Q. You also stated a Mr. Burger told you your home would be raided, I believe?

A. No, my office. I never did know my home would be raided.

Q. That your office would be searched?

A. Yes.

Q. Did he tell you he knew that?

A. No, I have discussed it.

Q. What was his source of information?

A. Well, he operates a tavern with hundreds of people coming in and out, and the only way -- I have discussed it with him since and he said, "A fine friend you are. My wife wants to know what kind of a friend you are to get me into this position." I told him, "Sam, I have to tell the truth and I am sorry to get you involved."

Q. His information turned out to be correct, in any event?

A. Yes.

MR. MacKINNON: I think that is all for now, thank you.

EXAMINED BY MR. BROWN:

Q. Mr. Humphrey, you have maintained in your evidence here that you had nothing to do with the now well known brief about the old Ramsay Club?

A. That is right, sir.

Q. And was it just a joke, then, when you told the police officers that you had, to use your own language, said, "That is a pretty nice brief I drew up for you"?

A. Yes.

Q. It is just a joke?

A. Yes.

Q. Why would you joke about that subject, particularly?

A. Well, at that time the subject might have been considered to have some humorous aspects, although it doesn't now. And during thaytime, bear in mind, this isn't their recollection but my recollection, I said this. There was a number of things said over a period of several hours. These people, knowing that I had worked for McDermott and Feeley, and they being part of a squad that wanted to get them, there was a lot of jocularity about these things and we all had lunch together.

Q. It was just a joke?

A. Yes.

Q. And you went on to say in your evidence, I think when Mr. Wilson was examining you: "If I had drawn the brief up I wouldn't tell them about it."

Now, why wouldn't you have told a police officer that you had drawn up the brief?

A. Well ---

Q. The brief was intended for the information of the police officers?

A. Yes, that is true.

Q. In putting out of business this old Ramsay Club. What would be so wrong about

telling them you had drawn it up?

A. I don't suppose there would be anything. It would just be very odd.

Q. I can't see, Mr. Humphrey, what was so odd about it. You had acted for McDermott and Peeley in a number of matters in connection with these two clubs in the Peninsula?

A. That is true.

Q. And in addition to that, you had, at their request, gone to Mr. Bowman in the Attorney General's Office and asked that action be taken against the old Ramsay Club, at the instance of your clients?

A. Yes.

Q. That is right. Now, what would be so strange if you, as their lawyer, did then prepare a brief that would be -- assist in the closing up of the old Ramsay Club?

A. Well, except for this, that had I prepared a brief, I would have gone down to Sergeant Anderson and sort of man to man made my identity known and not be doing it in the way it was alleged to have happened.

Q. I see. It wasn't so odd you should have drawn up the brief, it was that the brief should have reached Anderson through Stringer or some other intermediary that was the strange part?

A. That would seem to be the strange part at the time, although I didn't really know

what was in the brief at the time. It wasn't until the preliminary hearing that I really knew what was in the brief. That doesn't answer your question, either. I am sorry.

Q. I am a little puzzled by why you would say you wouldn't be associated with the drawing up of the brief when, apparently, you were quite willing to be associated with Mr. McDermott and Feeley in other matters that seem less professional than the drawing up of a brief?

A. That is a very difficult question to answer. I don'tknow. Certainly, particularly being engaged as a criminal lawyer, I certainly wouldn't want to take the position I was going to, in essence, be a volunteer prosecutor. I wouldn't want that to get around, and if I told these police officers that I had drawn a brief in anything but a joculer manner, and they believed me and I said this, I don't know. It is something that was just said in a joculer way. I am quite sure I wouldn't say if I had drawn the brief.

Q. If you hadn't drawn the brief, the best way would be to stay away from the subject. As you said, in a joculer manner, "This is a nice brief I drew up for you people"?

A. That is my recollection of that.

Q. All right. Now, I return for the moment to the subject of the mortgages and

the discharge of the mortgage. First of all, sir, I would like to have this marked as an exhibit. I think that was overlooked before.

THE COMMISSIONER: Yes, it was. I suppose the mortgage will be the first.

---EXHIBIT NO. 132: Mortgage dated May 5, 1958.

THE COMMISSIONER: I haveit in my notebook.

MR. BREWIN: The dates are recited at the top. Dated the 5th of May, 1958.

---EXHIBIT NO. 133: Discharge of mortgage dated November 21, 1958.

THE COMMISSIONER: What is the date of that?

MR. BREWIN: The date appears to be the 21st day of November, 1958. The word "May" was apparently typed in and crossed out, and the word "November" or "Nov" written in its place.

THE COMMISSIONER: What is the date of the affidavit of execution?

MR. BREWIN: The date of the affidavit of execution of the discharge of the mortgage, the 27th of November, 1958. The registration is the 9th of December, 1958, in the County of Essex.

Q. Now, as far as Exhibit 132 is concerned, that is the mortgage, I assume that, as that was drawn up in your office by your firm, you were familiar with it, at any rate.

DD/2

Also, has your name as the mortgagee; is that right?

A. Yes.

Q. If it was drawn up by one of your partners, I presume they would show it to you because it was to you, personally, before they would send it out for registration?

A. Not necessarily, no. This is a mortgage to me.

Q. Yes. Now, are you saying you didn't see that document?

A. I don't recall whether I did or not. I presumed before I did because I just sort of assumed it would require my signature. I see it is a mortgage to me and doesn't require my signature.

Q. Because it doesn't require your signature, are you saying then you don't recall seeing it or don't know of the contents of it?

A. I don't recall seeing it. I always thought, to my recollection, this was for $8,000. I don't know why I got that figure fixed in my mind.

Q. You thought it was for $8,000 and it is, in fact, for $15,000?

A. Yes.

Q. And who told you it was for $8,000?

A. I don't know. It could only be from McDermott and Feeley. I have $8,000 fixed in my mind.

Q. Why eight thousand?

A. I don't know.

Q. You don't know?

A. No. I was surprised to find it was $15,000.

Q. Now, before we go back to that, I show you this. In this particular document, which is a discharge, this unquestionably, that appears to be a photostatic copy, and that is your signature?

A. Yes, it is. You are correct. Did you get the correct spelling of Loughran? It is L-o-u-g-h-r-a-n. I don't know whether I gave it to you before.

THE COMMISSIONER: Let me see that. Go ahead, Mr. Brewin?

MR. BREWIN: Q. You have sworn that the purpose of the registration of this document was the protection of Mrs. Gardner, is that right?

A. Yes, that is what I was led to believe.

Q. And as far as you know, the only purpose?

A. That is correct.

Q. And the protection that might be afforded to her, I take it, was that this fictitious document would be registered and appear to mortgage the property when, in fact, there was no mortgage; is that correct?

A. That is right.

Q. So far as you recall, you don't know whether any money was advanced on the mortgage or not advanced on the mortgage?

A. I didn't think there was any money involved at all, and it is only in looking at my books last night that I see money was involved.

Q. Are you not aware of the fact that if no money is advanced a mortgage is not security for anything at all?

A. I thought it would be in there -- Mr. Brewin, I didn't really consider this. This would take possibly ten, fifteen minutes of discussion about this thing, some years ago.

Q. I am going to examine into how much consideration you did give to this matter. However, you said you only gave ten or fifteen minutes consideration, and so far as you know nothing was advanced on it at all. But it was to be registered so as to make it appear to some outside person, who studied the registration, that there was a mortgage on the property?

A. My first impression was that there was no money involved at all. I find I was wrong about that. There was $4,050 or $5,050 sent, presumably, to the lawyers in Windsor.

Q. Did you believe Mr. McDermott when he said it would protect Mrs. Gardner in some way?

A. Yes, that sounded reasonable to me.

Q. You did believe it?

A. Yes.

Q. Did you know if anybody was acting for Mrs. Gardner, other than yourself?

A. I had never met her. I wasn't acting for her.

Q. You weren't acting?

A. I had never met her.

Q. Did you know she was a married woman and do you know if any explanation was given to the effect ofputting a mortgage for $15,000 on property which she partly owned, that nothing was to be advanced on it at all?

A. She was to receive the discharge at the same time the mortgage was executed.

Q. Oh, she was to receive the discharge at the same time?

A. Yes, that was my impression.

Q. Who did you rely upon to give her the discharge?

A. I thought the lawyers who dealt with her in Windsor.

Q. I suggest to you that you have sworn that you gave it to McDermott?

A. That might be, too.

Q. So you were relying on McDermott to see she got the discharge, to see it could be registered or available to her simultaneously with the giving of the mortgage of $15,000 on her

property?

A. I thought that would be fair, yes.

Q. Did you think McDermott, who was apparently financially involved in some way, was to be trusted with this discharge for this lady? Did you take any steps to find out if she ever got the discharge until it was later presented to you?

A. No. This lady couldn't possibly have been hurt by this because if anything had gone wrong and she had got in touch with me and said, "Look, what about this?", I would have said, "That is right." There was no moneys advanced, and I know what you are getting at, Mr. Brewin. It does seem odd at the time, but at the time I had confidence McDermott was sincerely interested in helping this woman and it was done to protect her and to protect Gardner against himself.

Q. To have this woman execute a mortgage on her own property is, in some way, protecting her, and the mortgage which was given to you, but presumably as trustee for McDermott ---

THE COMMISSIONER: Let me see the mortgage. Go ahead, Mr. Brewin.

MR. BREWIN: Q. If I may just see how loosely you are prepared to regard these documents. Have you read over the discharge of the mortgage?

A. No.

Q. Are you aware it is a certificate

given by you as to certain facts, signed by you and intended to be registered to indicate certain facts?

A. I presume this discharges the mortgage.

Q. It is a certificate, isn't it? Did you read the thing before you signed it or do you know about certificates?

A. I know that a discharge of mortgage is to show there is no liability remaining on the mortgage.

Q. I see. And actually this is not signed by you until November, 1958?

A. That is what it appears.

Q. Then it isn't true that she had as her protection at the time the mortgage was registered, a discharge which could be registered at any time because this document that could be used to buy her -- happened to be given to her by McDermott, was not executed by you and would not mean anything until November, 1958?

A. That is the way it appears.

Q. So during the period of months by the time the mortgage was put on the property and up to the time you executed that, this lady was without any protection at all. She had given a mortgage on her property to you and there was nothing to show for it, as far as she was concerned?

A. That is right, except in the sense that I was always available to explain the situation

to anybody who wanted to know.

Q. Suppose somebody didn't ask you at that stage?

A. Yes.

Q. In any event, you took no steps at all to see she understood the nature of the protection that you were affording to her by getting the mortgage on her property?

A. Well, I understood from McDermott this was all talked over with her and this is what she wanted done.

Q. You took him at his word on that?

A. Yes.

Q. You didn't think the lady, herself, who was giving the mortgage, a married woman, required some advice about such a serious matter as signing a mortgage on her property? You think Mr. McDermott is competent to advise on that too, I suppose?

A. Well, it just didn't strike me that way. It struck me, this was something she was anxious to do and McDermott was anxious to help.

Q. I put it to you, Mr. Humphrey, you just signed anything and did anything Mr. McDermott asked you in connection with this. You didn't bother your head about considering the rights of Mr. or Mrs. Gardner at all. You were just doing what McDermott asked you to do?

DD/3

A. Well, it is probably true except I

was under the distinct, and still under thedistinct impression it was something she wanted done for her protection.

Q. But you didn't get in touch with her to find out?

A. No. I couldn't conceive of her signing a mortgage under these circumstances unless she talked it over with McDermott and this was all sent along from our firm off to the Windsor firm who she would get in touch with and I presume she would take it up with them when she was asked to execute the mortgage.

THE COMMISSIONER: Q. I see a recital in the mortgage. You are the mortgagee?

A. Yes.

Q. And they are the mortgagor.

"Whereas said mortgagor at the time of "the execution hereof is seized of the "estate in fee simple in possession of "the lands hereinafter mentioned and has "applied to the mortgagee for a loan "upon mortgage thereon."

Do you see that? The first recital? They hadn't applied to you for a loan?

A. No, my lord. I hadn't spoken to either one of them about it.

MR. MERVIN: Q. Then I suggest to you that you knew nothing about the question of whether the money due on the mortgage had been paid or not. You certify that, but you don't

know whether any money due on the mortgage had been paid or not, did you?

A. No, I didn't think there was really any mortgage.

THE COMMISSIONER: Q. Any mortgage?

A. Any mortgage.

Q. Any mortgage?

A. In the sense that this was something -- I can only reiterate something I have already said -- I feel she wanted done. She had been in communication with Mr. McDermott who would somehow protect herself and her husband and I foolishly, obviously, lent my name to the transaction.

MR. BREWIN: Q. Mr. Humphrey, you are a barrister and solicitor?

A. That is right.

Q. Did you feel you had no obligation to this woman at all?

A. I felt I was doing her bidding, in a sense.

Q. You accepted the proposition that McDermott was her emissary getting a mortgage from her and you were doing her bidding without communicating with her at all?

A. Yes.

THE COMMISSIONER: I suppose, Mr. Brewin, in fairness to the witness, there is a little more than that to it. He practises criminal law.

Q. You don't deal with real estate law, do you?

A. No, I don't do any, my lord.

THE COMMISSIONER: He sent this down to a firm of solicitors in Windsor and he possibly wouldn't look at the affidavit of execution. He would, perhaps, leave it to the lawyers down there who were going to see Mr. and Mrs. Gardner.

MR. BREWIN: Q. Did you instruct the lawyers down there?

A. We retained them.

Q. You retained them. Have you any correspondence indicating what instructions you gave them?

A. No. I don't recall -- Mr. Brewin, I don't recall this transaction at all, except, would you do this, and this is what you see going to do, and go ahead and prepare the documents, and I got the green book out to consult the lawyers in Windsor and I got hold of one lawyer my partner went to school with, and you are going to put a mortgage in my name, and I presume my office corresponded with him.

THE COMMISSIONER: Let me see the mortgage again.

Q. It was drawn in your office. There is no doubt about that?

A. It may be, my lord.

Q. There isn't any doubt about it. It is on your form?

A. Then it was drawn in our office.

MR. BROWN: Q. Well, let us get what was the real transaction again, for a minute. It recites an advance of $15,000, but that is not correct. There was no $15,000 loaned or, as far as you know, ever intended to be loaned?

A. That is right. I find it impossible that there was this $5,000 involved.

Q. Even as a criminal lawyer, you probably agree it is probably unusual that there is no interest payable on this mortgage at all?

A. I didn't notice that.

Q. You didn't notice that?

A. I don't recall seeing the mortgage.

Q. You are the mortgagee, nominally anyway?

A. If I had advanced $15,000, I would probably be able to tell you, but I don't recall ever seeing the mortgage.

Q. Then I think you told us you thought there was something about $8,000?

A. Yes. I was as sure of the $8,000 -- the face value was $8,000 -- as I was there was no money transacted, and I was wrong about both.

THE COMMISSIONER: Q. What put the $8,000 in your head?

A. I can't say, my lord.

MR. BREWIN: Q. You can't say what put

the $8,000 in your head, and no dollars at all, which you believe was the actual fact?

A. Yes, and it turns out ---

Q. And the last figure, just to show what transaction this is, I think you said was a trust account, indicates there was some $5,000 paid in and paid out?

A. That is right, I think to the same lawyers who were handling the deal in Windsor.

Q. Where did the $5,000 come from?

A. Mr. McDermott.

Q. Mr. McDermott?

A. I presume. Then, as I say, I was as sure of the $8,000 as I was there was no money at all, and the only person who would have given me the money would have been McDermott.

Q. And the only person who would have given you the money would have been McDermott. So we have the fact that $5,000 was advanced and sent down to the lawyers in Windsor, advanced by McDermott and sent to the lawyers in Windsor?

A. That is right. Through us.

Q. I put it to you that this mortgage would be something hanging over the head, would it not, of both Mr. and Mrs. Gardner?

A. I don't know.

Q. Quite a serious thing to have a $15,000 mortgage on your property?

A. Yes, that is true.

THE COMMISSIONER: Q. It had nothing to do with any indebtedness that Gardner owed McDermott?

A. Not that I knew of, my lord.

MR. MERWIN: Q. Gardner has told us he was always borrowing money from McDermott, but you knew nothing of that?

A. No.

Q. I see. Then to change the subject for a moment. You told us, I think, if I understood your evidence correctly, that you had a telephone conversation or at least a discussion, rather, with Mr. McDermott or was it Mr. Feeley, about the fact that there was a phone call from the Port Credit number, which they used, to Mr. Bowman?

A. That is right.

Q. I think the Commissioner asked you to try to remember when that was. Can you help us at all as to when that conversation with Mr. Bowman would be?

A. No.

Q. Or, I mean, Mr. McDermott?

A. No, I really can't.

Q. And the discussion was with McDermott, was it?

A. Yes, that is right.

Q. If I grasp the evidence you gave correctly, what Mr. McDermott said was that at that time we knew this number was being

monitored?

A. That is right.

Q. And that we purposely put in a sort of a call about a dog to Mr. Bowman's number, residence; is that right?

A. To be fair to McDermott, I wouldn't say he said"we put in", a call had been made.

Q. A call had been made?

A. Two calls had been made.

Q. Two calls had been made to Mr. Bowman at his residence?

A. To his home. That is the number which could be traced to him, yes, that is right.

Q. And the conversation was something about a lost dog?

A. Yes.

Q. And that that conversation was prolonged so as to make it appear more than a casual call?

A. Yes.

Q. Can you tell us at all when that explanation of Mr. McDermott of this call to Mr. Bowman was given?

A. No.

Q. And it was done, as I understand you to say, out of spite against Mr. Bowman?

A. That is right.

Q. For no other purpose. And because, I take it, that Mr. Bowman, in the opinion of

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Mr. McDermott and Mr. Peeley, was particularly hard on the gambling activities that they conducted; is that right?

A. Well, they took the view that he would close the clubs by hook or by crook, or was a very unfair person, in that regard, in his views.

Q. Now, I wonder if you also discussed with Mr. McDermott some of the other telephone calls that were made at about this same time from this number?

A. Yes. I said something about that isn't a very nice trick, or something like that, and I think he said something to the effect, "Well, he is in good company. He is along with Frost, Mulso Roberts", and he named a few big names.

Q. Do you know the phone call had been made to Mr. Maloney, Mr. Jim Maloney?

A. No.

Q. You didn't discuss that with him?

A. No.

Q. Beyond what you have told us, that he said he was in good company. Did you discuss with him the fact that phone calls had been made to Inspector Stringer, apparently?

A. No.

Q. Did you discuss with him the fact that -- perhaps you didn't know it at the time -- that a phone call had been made to Mr. Wright

in Belleville?

A. No.

Q. Police Constable Wright in Belleville?

A. No.

Q. That is all you can recall then about your discussions about the telephone calls; is that right?

A. Yes, that is all I can recall.

Q. And again, was this discussion -- would be after Mr. Wintermeyer made the speech in the Legislature he made?

A. I don't think so. I am quite sure it was before that.

Q. Before that?

A. Yes.

Q. Why would you be interested in these telephone calls? I understand that in the speech made in the Legislature that some attention was called to the fact that the Provincial Speech, I think through Constable Shrubb, had gathered information about telephone calls?

A. Yes.

Q. Why would you be discussing a telephone call, these telephone calls to Mr. Bowman before that information became public?

A. I wasn't discussing it with him. This came out as what he considered to be a humorous anecdote, and he told me the story.

Q. Are you quite sure this discussion

with your client, McDermott, about this telephone conversation with Mr. Bowman, was not after the information that came out to the public eye that there had been a telephone conversation?

A. I am quite sure, Mr. Erwin, and I must have told many, many people that story. I am almost positive I told Stan Hogg that story before.

Q. Before any speech was made by Mr. Wintermeyer?

A. Yes.

Q. Which, I take it, was the first time there was any public attention called?

A. Yes.

Q. To the question of telephone calls?

A. Yes.

Q. Or alleged telephone calls?

A. That is right, and I was wondering at that time why Frost's and the other telephone numbers were held back. That is my recollection of it.

THE COMMISSIONER: Q. Mr. Humphrey, as I wrote your evidence down ---

A. Yes, sir.

Q. --- excerpts of it, this is what you said. That when you were talking to McDermott about these calls, He led you to believe that he knew ---

A. Yes.

Q. --- that the police were executing

warrants in the Bell Telephone office in search for a record of telephone calls?

A. Yes, in the sense that the police were checking calls made on this line, yes.

Q. That is at the time he talked to you, this activity on the part of the police was going on?

A. No, not necessarily.

Q. That is what you said. He told you that the police were executing warrants at the telephone office re calls to this number?

A. Yes.

Q. Is that what you said?

A. I didn't mean to convey the impression that police were executing the warrants on a certain number and a phone call had been made to Mr. Bowman's number at that time. Now, I didn't mean to convey the impression at that very moment the police were executing warrants.

Q. Well, concurrent to the time Mr. McDermott was talking about. That is what I have in mind.

A. Not necessarily, my lord.

Q. When was it he told you?

A. I really can't say, my lord. It was a considerable time ago. How long ago it was, I don't know.

MR. BREWIN: Q. Now, you told us -- I am sorry.

THE COMMISSIONER: That is all, thank you.

MR. BREWIN: Q. Mr. Humphrey, you told us that your client, Mr. McDermott, told you that Mr. Bowman was in good company with these telephone calls about dogs?

A. Yes.

Q. Because there had been telephone calls to Mr. Frost and Mr. Roberts?

A. I don't think he indicated he was in the company of dogs. He was in good company because there was phone calls made to other important people who were equally not involved.

Q. There is no indication of any phone calls to either Mr. Frost or Mr. Roberts, that you know of?

A. No. This is another type of an example of a conversation you get from Mr. McDermott. I was waiting for Mr. Frost's and Mr. Bowman's numbers to turn up on the list.

Q. And the information that it was going to be monitored was simply to embarrass Mr. Bowman?

A. That was my impression.

Q. Have you any way of knowing why he was interested in embarrassing Mr. Jim Maloney? Apparently he put a phone call through the same day?

A. No.

Q. He didn't explain to you any idea of embarrassing Mr. Maloney about it?

A. No. I didn't know that. The

only persons I knew that had been called at about that time, or I thought had been called, and he said, "He is in good company", and that calls had been put through to Frost and Mr. Bowman and a number of others.

MR. BREWIN: Mr. Commissioner, I don't think I have too many more questions to ask this witness, but I may be another fifteen minutes.

THE COMMISSIONER: You want to be here to-morrow?

MR. BREWIN: I think the witness might be a little tired.

THE COMMISSIONER: Can you finish in a reasonable time to-day?

MR. BREWIN: I prefer not to, sir. I won't be long in the morning. I am not seeking further ammunition. I have other problems to-night and I know the witness must be tired by now.

THE COMMISSIONER: Very well.

---Whereupon the Inquiry adjourned at 5.06 p.m. until Wednesday, May 9, 1962, at 10.00 a.m.

---Whereupon the Inquiry adjourned at 5.05 p.m. until Wednesday, May 9, 1956, at 10.00 a.m.---

IN THE SUPREME COURT OF ONTARIO

BETWEEN:

KENNETH H. BROWN and JAMES T. GOW, Trustees, on behalf of themselves and all other Shareholders of Beleggings-Societeit, N.V., and the said BELEGGINGS-SOCIETEIT, N.V., as represented by the said Kenneth H. Brown and James T. Gow,

Plaintiffs,

- and -

BELEGGINGS-SOCIETEIT, N.V., as represented by W.H.J. de Boer and J.C.W.M. Huijsmans,

Defendants.

TRANSCRIPT OF ARGUMENT ON APPEAL

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